98TH CONGRESS HEARINGS: SUBCOMMITTEE ON RULES OF THE HOUSE

HEARINGS

BEFORE THE

SUBCOMMITTEE ON RULES OF THE HOUSE

OF THE

COMMITTEE ON RULES
HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

PART 1

H.R. 3231: EXPORT ADMINISTRATION AMENDMENTS ACT OF 1983
WEDNESDAY, JULY 20, 1983
AND
H.R. 1314: REORGANIZATION ACT AMENDMENTS OF 1984
THURSDAY, MARCH 22, 1984

PART 2

H.R. 4447: EXTENDED VOLUNTARY DEPARTURE FOR SALVADORANS
WEDNESDAY, JUNE 20, 1984

Part 2 of 2 parts

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H.R. 4447—EXTENDED VOLUNTARY DEPARTURE FOR SALVADORANS

WEDNESDAY, JUNE 20, 1984

House of Representatives,
Subcommittee on Rules of the House,
Committee on Rules,
Washington, DC.

The subcommittee met at 10:08 a.m., in room H-313, the Capitol, Hon. John Joseph Moakley (chairman of the subcommittee) presiding.

Present: Representatives Moakley, Beilenson, Bonior, Frost, and Derrick.

OPENING STATEMENT OF HON. JOHN JOSEPH MOAKLEY, CHAIRMAN OF THE SUBCOMMITTEE ON RULES OF THE HOUSE

Mr. **Moakley**. The Subcommittee on Rules will now come to order

This morning the Subcommittee on Rules will consider H.R. 4447, which provides for the temporary suspension of deportation for certain aliens who are nationals of El Salvador, and provides for Presidential and congressional review of conditions in El Salvador, and for other purposes.

The debate in Congress over the dollar cost of the war in El Salvador has been extensively covered by the media and is fairly well known by the general public. Yet the actual human element of the conflict now raging in El Salvador is distant for most Americans. None of us can truly comprehend the terror and anguish that has befallen these people. Increasingly, however, we in the United States are confronted with the faces of this Central American tragedy through the refugees that have come into our country, into our communities, churches, and also into our lives.

This human crisis has also been brought to the attention of many Members of Congress as the horror stories of the refugees have become known. Many Salvadorans have fled their homeland, seeking temporary shelter in our country to wait out the storm in theirs. The response of our Government has been to reject the possibility that most of these people are legitimate refugees, or that they even have reason to fear returning to El Salvador.

I first became aware of this issue a little more than a year ago as a result of a meeting with some of my constituents who had been working with the Salvadoran refugee population in the Boston area. They told me, as many others have told me since, stories about murders and tortures that have occurred in El Salvador.

They urged that I seek a way to stop the deportation of such people who are currently in the United States, or at least until such time as it is safe for them to return to their homeland.

As many of you may know, in the past this administration and previous administrations have implemented a status called extended voluntary departure, which is simply a stay of deportation. It has been used to provide temporary relief to 15 national groups in the past 24 years.

This status has been granted by the Attorney General, upon the recommendation of the Secretary of State, to nationals from countries that were experiencing extreme civil strife or human rights violations. It presently applies to people of Poland, Ethiopians, Afghans, and to Ugandans.

Certainly, the conditions in El Salvador are equally as threatening. Nearly every major human rights organization in the world has documented the ongoing atrocities in El Salvador. The civil war in that country has claimed the lives of over 40,000 civilian noncombatants since 1979. Many thousands of others have had their lives threatened and their homes destroyed.

In April 1983, I, along with 88 of my colleagues in the House, wrote to the Attorney General and to the Secretary of State urging that extended voluntary departure status be granted to Salvadorans. Some months later, we received responses rejecting our suggestion.

Due to the current human crisis in El Salvador and due to the administration's unwillingness to take what I believe to be the appropriate action regarding Salvadorans, I introduced, along with 145 of my colleagues, H.R. 4447, calling for a temporary halt to the deportation of Salvadorans now in the United States. The stay would sunset after 3 years unless Congress would wish to resume deportations sooner. Identical legislation has been introduced in the Senate by Senator Dennis DeConcini and enjoys bipartisan support.

For those Salvadorans who have come to the United States seeking temporary safe haven, the reception they have received has been less than considerate of their desperate situation. These people have left behind family and friends and have undertaken treacherous journeys to get here. Their lives have been permanently marred with the scars that only a brutal conflict can cause.

It seems clear that a temporary suspension of deportation for the Salvadorans now in the United States is an appropriate and modest action for our country to take—a country that postures itself as the great international protector of freedom, democracy and human rights.

I would also like to thank at this time Congressman Frost of Texas for joining us. Congressman Frost is one of the authors of the bill and a very able member of the Rules Committee.

Do you also have an opening statement?

Mr. Frost. Just very brief. Thank you, Mr. Chairman.

This is a very significant issue. It is an issue of some consequence in my area in Texas—Dallas, TX. We have a number of El Salvadorans in our community. It is hard to understand, quite frankly, why the administration has taken the position that they have in refusing extended voluntary departure status for these refugees, and I wholeheartedly endorse this legislation. I am anxious to hear from the administration and other witnesses this morning.

Thank you.

Mr. MOAKLEY. We have many other members of the Committee on Rules who are cosponsors and they will be joining us as we move along.

The committee is privileged to have with us this morning as part of the administration panel the Honorable Elliott Abrams, Assistant Secretary of State, Bureau of Human Rights and Humanitarian Affairs.

Also scheduled to be with Mr. Abrams is the Honorable Alan Nelson, Commissioner of the Immigration and Naturalization Service.

The committee will now hear from the Honorable Elliott Abrams.

STATEMENT OF ELLIOTT ABRAMS, ASSISTANT SECRETARY OF STATE, BUREAU OF HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

Mr. ABRAMS. Thank you, Mr. Chairman.

I am grateful for this opportunity to be here today. I hope in the course of my testimony to answer the question that Mr. Frost asks about why this administration takes the position that we do.

Every member of the subcommittee knows, and I think every American must by now be well aware that El Salvador is a country troubled by poverty, violence, overpopulation, and a history of oppression.

For a number of years, Salvadorans have looked for economic opportunity elsewhere. Prior to the war between El Salvador and Honduras in 1969, a large number were living in Honduras. Through the 1970's and early 1980's, hundreds of thousands of Salvadorans have come to the United States. The increased violence in El Salvador, prevalent since 1980, no doubt increased the incentives to leave that country, as have the economic difficulties which the war has only worsened.

The United States is thus confronted with a number of significant immigration issues regarding El Salvador. It is difficult for Salvadorans to get visitors' visas to the United States and difficult for them to get immigrant visas as well. We face a very significant amount of illegal immigration from El Salvador, and a larger quantity of asylum applications. How do we deal with the asylum applications? To those not entitled to asylum, how do we respond to their desire to live in the United States?

The asylum issue is in a sense an easy one. U.S. law, in incorporating the definition of a refugee contained in the convention and protocol relating to the status of refugees, sets forth the standards by which an asylum application must be judged. We apply these standards and a limited number of aliens, irrespective of their nationality, can meet them. This is true of asylum applicants from El Salvador. This has occasioned such criticism of the administration's asylum policy toward El Salvador but, in fact, we have no asylum policy toward El Salvador or any other country; we apply the same standards to each. In the last few months recommendations for the approval of applications from Salvadorans and Nicaraguans have been running at roughly the same rate, and though, of course, there are variations for both countries over time, about 10 percent of applications can meet legal standards. This reflects no policy decision, nor does it reflect the state of our bilateral relations with either Government; it simply reflects the fact that asylum applicants must meet the legal standards in order to be granted asylum. We are well aware that such criticism could be ended were the number of Salvadoran asylum applications that are approved higher. But to approve asylum applications for partisan political reasons would ignore the law. We recommend in favor of applications that meet the standards and against those that do not.

The argument is then made that all Salvadorans, even those who do not qualify for asylum, should not be deported to El Salvador, but rather allowed to remain here. As you know, the administration does not concur with this view. All suspension of deportation decisions require a balancing of judgments about their foreign policy, humanitarian, and immigration policy implications.

In the case of El Salvador, the immigration policy implications of suspension of deportation are enormous. Here we have a country with a history of large-scale illegal immigration to the United States. Can anyone doubt that a suspension of deportation would increase the amount of illegal immigration from El Salvador to the United States? An intelligent and industrious Salvadoran weighing a decision to try illegal immigration to the United States knows that one of the risks is deportation, which might occur before he has had a chance to earn back the costs of the journey. If we remove that possibility of deportation, it is simple logic to suggest that illegal entry becomes a more attractive investment.

Of course, not all Salvadoran migrants to the United States are solely or primarily economic migrants; some are refugees who may be and have been granted asylum, and they do not need suspension or deportation to be protected. So, by definition, when we discuss suspension of deportation for the group which is not eligible for asylum, what we are discussing is whether people who immigrate from El Salvador to the United States illegally should be permitted to reside here. If one says yes to this question, then we do not have an immigration policy with regard to El Salvador. We have abdicated the responsibility to have one.

It was the failure of our Government to have a coherent approach to refugee flows that prompted the Congress to pass the Refugee Act of 1980. It was the specific intent of the Congress to end nationality-specific measures that provided benefits for persons from one country and left other persons with similar claims in limbo. It was also the Refugee Act that made part of our law the U.N. High Commissioner's definition of refugee that requires each asylum application to be examined on an individual basis.

We believe our Government should avoid single nationality legislation. We also believe passage of the Simpson-Mazzoli bill provides long-term solutions to some of our immigration problems. Many Salvadorans, as well as persons of other nationalities, will be permitted to achieve legal resident status through provisions of the amnesty.

Some groups argue that illegal aliens who are sent back to El Salvador meet persecution and often death. Obviously, we do not believe these claims or we would not deport these people. Twice in recent years the U.S. Embassy in San Salvador has tracked deportees to determine if they were being persecuted. We concluded that they were not. Last year, we asked some officials of Tutela Legal, which is the human rights office of the Archdioceses of El Salvador, whether they believed there was a pattern of persecution of deportees. They replied that they did not. It is noteworthy that these accusations which are lodged by some American activist groups critical of U.S. policy in El Salvador, find no echo nor did they find their source in complaints from Salvadoran human rights groups, which have never made this claim. And that stands to reason. El Salvador is a country, as noted above, in which immigration abroad is a common and respected means of self-improvement, and it is engaged in by hundreds and thousands of Salvadorans, by perhaps a quarter of the population. I submit that the notion that the people being deported are easily identifiable when they return to El Salvador is false, and the notion that they are automatically suspect is equally false.

The subcommittee will be interested to learn that, in part, in response to the great interest expressed by Chairman Mazzoli, Senator Simpson and others, we have continued to study the treatment of deportees. The Embassy in San Salvador was sent the names of nearly 500 deportees, selected at random. Efforts were made to contact every one of them in order to see what happened to them after their return. We have been able to locate or find out about roughly 50 percent of them, using Salvadoran employees so as to draw as little attention as possible to this whole survey.

We have now completed the study and we will be happy to share the specific information gathered as soon as the final report is ready for release. I can tell you, though, that we found no evidence of mistreatment of those Salvadorans interviewed, or among those whose welfare was verified through contact with family members or friends. One interesting note is that 21 percent of those who were located are, according to family or friends, already back in the United States.

We have confirmed that one returnee was killed. His wife reports that the guerrillas killed him, for his earlier involvement with government security forces. A letter sent to the address furnished by a second person was returned marked "Deceased." The Embassy was unable to obtain any further information.

I would not suggest to this subcommittee that we have completed here the definitive scientific study and that no further efforts are needed. But surely there must come a time when any observer concludes that this alleged pattern of wide-scale abuse of deportees is unsupported by evidence.

I am sometimes asked why the United States does not do anything to solve the humanitarian problems of poverty, displaced persons, and violence in El Salvador. This is a startling question, when you consider the enormous amount of American diplomatic and political effort aimed at bringing democracy and peace to El Salvador, and the extraordinary amounts of economic aid which we give and increased amounts which the Administration has urged upon Congress.

Our proposal of $341 million in economic assistance for fiscal year 1985 to El Salvador is certainly a valuable response to the humanitarian problem there. I do not believe that the appropriate response to the problems of poverty or violence in El Salvador is to allow any Salvadoran who wishes, to simply live in America instead, any more than I think this is true for Guatemala, Haiti, Nicaragua, Sri Lanka, Afghanistan, Iran, Uganda, Ethiopia, Lebanon, Vietnam, or Zimbabwe. My point, of course, is that in a very large number of countries millions of people and, indeed, tens of millions, face lives which any American can only view as desperate. How do we respond? We respond with our willingness to allow hundreds of thousands to immigrate legally to the United States. We respond with our asylum and refugee programs, which are the most generous in the world. We respond with our foreign aid program, now totaling $8.89 billion including the pending supplemental request. And we respond with various political and diplomatic efforts to resolve disputes and reduce violence. It does not seem to me that a sensible response can be to say that all these people, if they can make it to the United States, can stay. We can and we must do very many things to address the urgent and desperate humanitarian needs of tens of millions of people throughout the world, but one thing we really cannot do for them all is tell them to move to America.

I therefore respectfully suggest that the current policy is an appropriate one, combining large amounts of economic assistance, energetic diplomatic efforts, and the grant of asylum to those with a well-founded fear of persecution.

Thank you, Mr. Chairman.

Mr. MOAKLEY. Let the record show that Hon. Alan Nelson, Commissioner of the Immigration and Naturalization Service, is also at the panel.

And also at this time I would like to introduce the other members of the committee that have come in. Congressman Tony Beilenson, who is also a cosponsor of this bill, and also Congressman Dave Bonior who is also a cosponsor of this bill.

Commissioner.

STATEMENT OF ALAN C. NELSON, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE

Mr. NELSON. Mr. Chairman, I am pleased to join you, and my apologies for being late.

I would like to submit for the record our prepared statement.

Mr. MOAKLEY. Without objection, your entire statement will appear in the record.

Mr. NELSON. I will not read the entire statement, which you have, but just summarize a few of the points.

We are certainly pleased to join the State Department in testifying today. This statement that we have submitted replicates a statement we had previously testified to, and submitted to the Immigration Subcommittee of the House, in testimony a few months ago.

Mr. Abrams has covered most of the basic issues, and so this testimony basically confines or is limited to Sections 2 and 3 of the Act.

In 1980, this Congress passed the Refugee Act to supplant the piecemeal and Nation-specific legislation and parole programs under which refugees had been admitted to the United States.

Certainly, the Justice Department, with all due respect, Mr. Chairman, must join with the State Department and the administration as a whole in opposing this legislation. We certainly know that this bill is well intended, but we think that what this bill would do would be to set up a mechanism which would circumvent the system set up by the Refugee Act only 3, 4, years ago, and return to what had been an unfortunate, and what we think had been an ill-managed, ad hoc approach of the past.

This bill does re-create a Salvadoran class. I think this engenders problems, both with policy and international relationships, and certainly controvenes the basic thrust of the Refugee Act. Certainly we face similar problems around the world today; they are not confined to El Salvador.

What we have in the law today under the Refugee Act is this case-by-case approach to determine asylum, to determine whether other extraordinary relief is available. We think that that is the proper approach. I might add here to what Mr. Abrams testified to, I have been deeply involved, as has the Justice Department, in this whole issue of extended voluntary departure, and, in particular, the underlying question that many people raise as to what happens to people upon being returned to El Salvador.

As you know, most people who go back to El Salvador, voluntarily depart. But between those who have been deported and voluntarily returned, there has been absolutely no evidence of any harm coming to any of those. I think it is quite unfortunate that some of the interest groups, by continually stating and restating that they are going back to death and persecution, and the media taking this up, that becomes sort of an accepted fact.

As Mr. Abrams indicated, we had several reviews by the State Department, INS has participated, and by independent groups, and certainly those proponents, those advocates of the fact that there is harm, have not come up with any independent evidence. They did not do so in the case of the Haitians, in a trial in Florida; they have not done so in the case of El Salvador, and in the case of several trials in Texas, and other occasions. We think that it is unfortunate that many people give credibility to that. That just is not demonstrated

But back on the basic theme here, we again say that under the Refugee Act, and under our laws that exist, we have asylum procedures that are handled administratively. They are handled through administrative processes, and on into the Federal courts. So there are ample levels of review for those who claim persecution, and who proceed with the case.

The fact that not many applications have been granted or sustained on appeal, we think verifies what has been the basic position, namely, that almost all of these people are, in fact, economic migrants, and they are not here for political purposes.

Another problem, Mr. Chairman, with this bill, is, we think, an astonishing and apparently absolute prohibition of the detention of all deportable Salvadorans. That would greatly undercut our whole immigration policy.

We, obviously, this week are spending time in this House, and with due credit to all of you, are dealing with this difficult issue. We certainly cannot undercut our enforcement mechanisms, which this bill would do, regarding Salvadorans. In practical terms, it would mean that any person claiming to be a Salvadoran, could in fact be immune from operation of the immigration laws.

Attached to our testimony are letters from the Attorney General dated July 19, 1983, and from the Secretary of State dated June 23, 1983, which we think very clearly set forth this administration's analysis and policy. I would call those to the committee's attention, as we summarize.

As I said a minute ago, we are convinced that the large majority of Salvadorans are economic migrants. We know currently that there are somewhere up to half a million illegal Salvadorans in the United States. Most of those came in many, many years ago, long before there was any kind of significant violence there. This is a big problem, as well as with other nationalities, but that number represents almost 10 percent of the population of El Salvador. We think that to have an extended voluntary departure program mandated as this bill would do, would create some very significant problems and immigration concerns; it would open the door for continued illegal immigration.

As Mr. Abrams, I think, alluded to, we do not think the foreign policy aims of this country would be accomplished. So again, Mr. Chairman, we must respectfully join in opposing this legislation. Thank you.

[Mr. Nelson's prepared statement, with attachments, follow:]

STATEMENT

OF

ALAN C. NELSON
COMMISSIONER
IMMIGRATION AND NATURALIZATION SERVICE

Mr. Chairman, and Members of the Subcommittee, I am pleased to have the opportunity to comment on H.R. 4447, which you are considering today. The Department of State has already testified as to the circumstances in El Salvador, and I will confine my remarks to sections 2 and 3 of the bill.

This bill would establish extraordinary and unique procedures for handling nationals of El Salvador in the United States without regard to their reasons for and manners of entry into the United States, and contrast to existing law and policy which are intended to treat aliens of all nationalities in a similar fashion. Congress passed the Refugee Act of 1980 to supplant the piecemeal and nation-specific legislation and parole programs under which refugees had been admitted to the United States. The stated objective of the Refugee Act was "to provide a pertinent and systematic procedure for the admission to this country of refugees of special humanitarian concern to the United States...." It set up a system under which any person--regardless of origin--can apply for and receive individual consideration of the merits of his or her claim to asylum or refugee status.

However, H.R. 4447 proposes to circumvent this system set up by the Refugee Act only three years ago and return to the ad hoc and discriminatory approach of the past. Section 3 of this bill would prohibit the Attorney General from detaining or deporting virtually all nationals of El Salvador who are present in or who enter the United States during the next three years. In essence, it would create a class of virtually every Salvadoran who can manage to enter the United States and regardless of whether the individual has a legitimate claim of persecution, would provide an indefinite safe haven here in the United States. The bill specifically states that Congress may extend this period after considering the Presidential report called for under section 1 of the bill. This raises the prospect of a stream of Salvadorans illicitly entering the United States under the effective sanction of this legislation. In effect, Congress would be encouraging Salvadorans to enter the United States in any manner possible to take advantage of the provisions of this bill.

Problems are not unique to El Salvador, which is why the 96th Congress concluded that the case-by-case approach of the Refugee Act is a fairer system than the nation-specific approach it abandoned. In any case, there is no reason to lack confidence in the Attorney General's decisions on asylum applications. No credible evidence has been presented that any Salvadoran or other national deserving of asylum has been deported from the United States. Denials of asylum can be processed through several levels of administrative courts and are appealable to the federal courts.

Finally, H.R. 4447 provides for an astonishing and apparently absolute prohibition on the detention of all deportable Salvadorans. Because of judicial interpretations of the term "detain", which as you know, can mean anything from "stop and question" to physical custody, the provisions of this section could prevent the Immigration Service from taking an individual into custody in order to verify status or nationality or even persisting in questioning an individual who claimed to be a deportable Salvadoran. In practical terms, this would mean that any person claiming to be from El Salvador would be immune from the operation of the immigration laws. At a time when Congress is pressing for better enforcement this type of provision hampers effective INS operations.

In conclusion, the Department of Justice and the Administration oppose the fundamental premise of H.R. 4447 which would make an exception for Salvadorans to the orderly procedures called for by the Refugee Act to determine whether or not an individual has suffered persecution or would be subject to persecution in his or her homeland. The Attorney General has concluded upon consultation with the Secretary of State that a blanket grant of extended voluntary departure for Salvadorans would not be in the interests of the United States. Attached hereto and made part of this testimony are letters signed by the Attorney General dated July 19, 1983, and by the Secretary of State dated June 23, 1983. The comments and conclusions therein remain in effect currently.

Passage of H.R. 4447 would clearly result in thousands more Salvadorans being added to the floodtide of illegal migrants who are coming to this country outside the legal channels established under the Immigration and Nationality Act. Note that many estimate that up to 1/2 million Salvadorans are already in the United States illegally. Based on available 1982 information, this constitutes approximately 10% of the entire population of El Salvador. The Refugee Act provides a system within which to accomodate refugees from all lands. Salvadoran nationals who fear individual persecution may file for and secure asylum in the United States along with persons from all other countries. The nation-specific approach of H.R. 4447 has been and should continue to be rejected by Congress.

This completes my prepared testimony. I would be glad to respond to any questions you may have.

Office of the Attorney General
Washington, D.C. 20530

July 19, 1983

The Honorable
House of Representatives
Washington, D.C. 20515

Dear Congressman

This is in response to your letter of April 28, 1983, concerning El Salvador and requesting that Salvadoran nationals be provided temporary sanctuary in the United States. The delay in this response has been due to our taking a close look at the situation. I share your concern about the disturbances in areas of El Salvador, and the unfortunate plight of the Salvadoran nationals who have been displaced from their homeland. However, after careful consideration and review, I have concluded that the present circumstances do not warrant a granting of "extended voluntary departure" to El Salvadorans presently in the United States illegally.

As your letter points out, there have been occasions when the Attorney General, in consultation with the Secretary of State, has determined to delay temporarily expulsion of aliens of particular nationalities. Although somewhat of a misnomer, this form of discretionary relief from enforcement of our immigration laws most often has been referred to as "extended voluntary departure." Because of the serious foreign and domestic policy ramifications of withholding the expulsion of illegal aliens on nationality-based classifications, grants of such relief have been rare and limited to those cases where, in the judgment of the senior Executive Branch officials responsible for such policy, the best interests of the United States are served by such extraordinary measures.

It is true, as you further point out, that "extended voluntary departure" has been granted to nationals of Ethiopia, Nicaragua, Poland, and Uganda, at times when such countries were experiencing significant civil disturbances. It is inaccurate, however, to assume that there exists any specific criterion or criteria, such as the occurrence of violence or political instability, by which grants of "extended voluntary departure" are determined. As reflected in our immigration laws, it is an unfortunate reality that our country cannot provide sanctuary to all foreign nationals whose homelands are experiencing political or economic misfortune. The decisions made as to "extended voluntary departure" are reached on a situation by situation basis and are not readily susceptible to comparison or generalization. Each determination is based on examination of a variety of factors unique to each country's situation.

Because of our shared concern regarding the citizens of El Salvador, I requested new and additional advice of the Secretary of State on this matter. By recent letter, Secretary Shultz has responded that in his judgment our present U.S. efforts to assist the Salvadoran people constitute the most constructive course of action in light of our foreign policy interests, and that the Department of State does not recommend that "extended voluntary departure" be granted to Salvadoran nationals in the United States.

In addition to the counsel provided by Secretary Shultz, I have carefully considered a number of other factors. As you know, it is estimated that there are hundreds of thousands of illegal Salvadoran aliens already in the United States. This is but one facet of the current crisis in which our country is experiencing a floodtide of illegal immigrants. A grant of "extended voluntary departure" to the Salvadorans undoubtedly would encourage the migration of many more such aliens. Because of the present and potential political and economic instability in other countries in close geographic proximity to the United States, any grants of conditional immigration benefits must be considered in light of its potential inducement to further influxes of illegal immigrants. Our recent experiences with the mass migrations of Cuban and Haitian nationals to the United States have underscored the need for proper concern in such matters for the finite capacity of our country's law enforcement and social support systems. It is also clear that, notwithstanding our improving economy, the continuing problems of unemployment and budget deficits can only be exacerbated by any action which would increase substantially the number of people competing for employment and social services.

I have also considered the fact that there are adequate alternatives by which the Salvadoran nationals may seek relief. For example, as you know, our immigration laws provide various specific procedures whereby aliens may lawfully secure the right to enter and remain in the United States, including application for asylum where there is a properly demonstrated claim of fear of individual persecution in the alien's homeland. This is not to suggest that grants of "extended voluntary departure" and asylum are based upon the same considerations and criteria; however, I do view it as significant that the provisions of the Immigration and Nationality Act contain numerous forms of relief for which aliens may apply to remain in the United States. Both the number of Salvadoran aliens and past experience suggest the possibility that many such aliens may seek to remain in the United States for economic improvement as well as the fact that many such aliens passed through third countries which would afford sanctuary were that the sole objective of the migrants. Thus, I believe it appropriate to address the Salvadorans' request for relief on an individual by individual basis, as is the normal course under our immigration laws.

Finally, as you know, the Department of State has made periodic reports on the conditions in El Salvador and has concluded that, while serious problems remain, the risk to the general citizenry from civil disturbance is not prevalent throughout the country and, in some areas, the risk has diminished.

Although it is my judgment under the present circumstances not to institute a discretionary grant of relief from enforcement of our immigration laws to all Salvadoran nationals now in the United States, I have attempted to convey the serious attention that has been given to the matters raised in your letter. Please be assured that we shall continue to monitor the situation carefully, and will make every effort to ensure the fair and humane administration of our immigration laws and policies with respect to the many Salvadoran and other aliens now in our country.

Sincerely,

William French Smith

William French Smith
Attorney General

THE SECRETARY OF STATE
WASHINGTON

JUN 23 [illegible] 3 [illegible] '83

June 23, 1983

Dear Bill:

This is in response to your letter of June 13, 1983 concerning extended voluntary departure (EVD) for Salvadoran nationals in the United States. I, too, have received a letter from 89 members of the House of Representatives recommending that EVD status be granted to Salvadoran nationals in the United States, and I am aware of the sense of the Congress resolution and the pending litigation to which you refer.

The letter from the Congressmen and the litigation you have cited compare the level of civil disturbance and strife in El Salvador to those in other countries at times during which the Department of State recommended that EVD be granted for the nationals of those countries. However, such considerations in this or past cases can not be so readily generalized for comparative purposes. For example, it should be noted that civil strife is not prevalent throughout all regions of El Salvador. In any event, the extent of civil unrest alone does not determine the Department's view toward the granting of EVD to nationals of a particular country. The Department invariably considers a number of factors in deciding whether to recommend the granting of EVD in any particular case, and the granting of EVD may meet different objectives in different cases. Moreover, a recommendation to grant EVD in a particular case is but one of a number of possible responses that the Department may consider useful and appropriate.

The Department shares the humanitarian concerns of the 89 Congressmen and others about the continued civil strife in El Salvador. As you know, the Administration has taken a number of steps to help the Salvadoran people in their efforts to establish a democratic society in which the rights of all are recognized and protected. These include: bilateral and

The Honorable
William French Smith
Attorney General.

regional efforts (in which you personally have participated) to foster legal reform in El Salvador and several other nations in Central America; U.S. support of human rights initiatives, including creation of the Human Rights and Peace Commissions, and the recent amnesty; the medical assistance recently dispatched to El Salvador; and support of agrarian and other economic reforms. Through our efforts and those of others like the International Committee of the Red Cross, progress has been made in the taking and treatment of prisoners and the visitation of those detained, while, over the long term, violence outside of combat has been reduced. The Department believes that such measures, coupled with U.S. assistance and training programs in El Salvador, constitute a concerted political and humanitarian response to the situation in El Salvador, and that our present course of action is the most constructive in light of U.S. foreign policy interests with respect to El Salvador and other countries in the region.

In addition, based on past experience, the Department has concluded that a grant of EVD is, if not a magnet, at least an inducement to members of the beneficiary nationality to seek to enter the United States by any means, since they can avoid deportation. While, as you know, accurate statistics concerning illegal migration generally are not available, it is our best estimate that the 1979 grant of EVD to Nicaraguans was followed by a significant increase in illegal Nicaraguan entry into the United States. This phenomenon is, of course, facilitated by the proximity of Central America to the United States and the relative ease of travel to the U.S. from that area. We have examined this factor in light of our general understanding that for some years now Salvadorans have been migrating illegally to the United States, and in light of this Administration's strong commitment to deter illegal migration to the United States.

Because of the foregoing, the Department of State does not recommend at this time a grant of EVD to Salvadoran nationals in the United States. Please let me know if you require any further information.

Sincerely,

George P. Shultz

Mr. Moakley. How many Salvadorans would be eligible for amnesty under the present bill that is being currently debated on the floor of the House?

Mr. Nelson. That, of course, is very hard to say, Mr. Chairman. A lot will depend on the date of the amnesty, whether say the 1982 date——

Mr. Moakley. Well, let us take the 1982 date.

Mr. Nelson. All right. Again, if we can—there is no way of knowing, of course, how many have been here, how long, and would otherwise qualify.

Mr. Moakley. I know it is only a ballpark answer, but I was going to say out of the half a million, how many do you think?

Mr. Nelson. If the figure half a million is a reasonable estimate, and we had the 1982 date, and this has to be very ballpark, we may be talking about a quarter, a third, maybe half of those.

Mr. Moakley. Congressman Beilenson, any questions?

Mr. Beilenson. I do not have any questions at this moment.

Mr. Moakley. Congressman Bonior?

Mr. Bonior. Yes; can you give me, either of you, an idea on the amount of time that we have allowed emigres from—illegal emigres, from other countries, to stay in the United States?

For instance—and I may not be correct on this, but I recall Poles had been extended, time has been extended for Poles to have come to the United States and normally would be required to go back to Poland.

Could you give me a brief rundown on——

Mr. Moakley. If I may?

According to our information, and I am sure the Commissioner can tell you better than I can, there are 15 nations that were granted some type of extended voluntary departure, including people from Poland, Uganda, and other countries.

You want to know——

Mr. Bonior. Yes; I would like to know who the countries are.

Mr. Frost. The same here.

Mr. Moakley. Do you want to know the length of time that they have been allowed to stay here after their——

Mr. Bonior. I see it.

Well, then now that I see it, let me ask Mr. Abrams and Commissioner Nelson, how do you differentiate, let us say, between what we are trying to accomplish in the legislation and let us take the Poles, for example.

Poland has just recently been granted an extension of time.

Mr. Abrams. I think there are three factors that go into any decision on EVD. Humanitarian, foreign policy, and the immigration policy.

Mr. Bonior. Humanitarian?

Mr. Abrams. Foreign policy and the immigration policy.

If you take the case of Poland, first of all, there is a good foreign policy reason for continuing EVD, that is, that the United States, as you know, was attempting to maintain a certain degree of NATO unity with regard to Poland, and sanctions against Poland. To have broken NATO unity by ending EVD, by having a policy toward Poles who were residents abroad, would, I think, have had a deleterious foreign policy impact, and would have been a step by the United States against one of our other foreign policy goals, which was to maintain that unity of NATO, vis-a-vis Poland.

From the immigration policy point of view, we do not have a problem with large scale illegal immigration from Poland, and there is no reason to think that a grant of EVD, partly because it is not so easy to get out of Poland, would have led to a great increase in the number of illegal aliens from Poland to the United States.

In the case of El Salvador, the situation is exactly opposite. We have a big problem with illegal immigration. It is easy to get out of El Salvador, it is easy to get here from El Salvador, and therefore the immigration consideration is very different.

Mr. BONIOR. Your point about NATO unity, and you may correct me if I am wrong, but as I recall, most of our NATO allies are not supportive of our position with respect to our foreign policy in El Salvador, is that correct?

Mr. ABRAMS. It varies a great deal. Some are not, and some are.

You know, I do not want to put it in a spectrum, but some are in fact pretty supportive.

Mr. BONIOR. OK, what are the other two, humanitarian?

Mr. ABRAMS. Well, I said the immigration policy and foreign policy, and then humanitarian concern. That is the one that we addressed, I think in two ways.

First, the broader question, what can we do for Salvadorans, if we do not wish to allow anyone who wants, from El Salvador, to live here. That is, what about aid programs? What about health for displaced persons in El Salvador? Are there refugee camps for Salvadorans in Honduras, or something like that? That is, what is the situation of Salvadorans in and out of El Salvador?

Second, what happens to people who we deport? And that is the question that I tried to address my testimony, that is, are we deporting people who are then persecuted, to use the official language, that is who are then shot at, or killed, or tortured, or arrested, or any other way persecuted? We have attempted, on a number of occasions, over the past few years—when I say we, this goes back to the Carter administration, when the first efforts were made, about 4 or 5 years ago—and there is no evidence that we have been able to come up with that deportees are targeted for persecution.

Mr. BONIOR. Now, I cannot anticipate what I am going to hear from the other panels, but I suspect that I am going to get the opposite viewpoint from them, with regard to torture, people who return, and loss of employment, and other things.

Do you want to anticipate what they are going to say, and respond to that? Since I assume you are not going to hang around.

Mr. ABRAMS. I thank you for the opportunity.

The first thing I would like to say is simply that we have made several efforts to study this question, and keep coming up with an inability to find evidence that deportees are targeted for persecution.

We have, on occasion, been given lists, or studies from human rights groups. We have been asking now for—well, this administration, for 3½ years—give us the proof, give us the evidence that your claim that people are—that deportees are targeted for persecution is true.

For a while we did not get anything. More recently we have been getting some submissions from human rights groups, and they are really quite persuasive, that there is no such persecution.

The ACLU, I do not know whether they are testifying today, but the ACLU did a very large study which looked at 12,500 names of people who had been allegedly persecuted in El Salvador, that is, they had been victims of human rights violations, plus 8,500 names of people who returned to El Salvador, either through deportation or what is known as voluntary departure. And they tried to match them, to see from a computer match, the names of people on both lists, which of the deportees turned up on the human rights abuse list.

My memory may be off by 1 or 2, but they came up, as I recall, with a list of 113 names out of those, 113 people who seemed to appear on both lists. Of course, if you have somebody on both lists, whose name is Juan Rodriguez, it does not tell you a lot. It is a common name in El Salvador.

So they then rated themselves whether they thought there was a high or above average chance that people on both lists were the same man or woman, or average, or below average. They came up with an above average, or high probability, if my memory is right, it was 27 cases.

Again, I may be off by one or two. So out of 8,500 people who were deported, they claimed that one-third of 1 percent had an above average probability of having had their human rights violated, and that does not really get into the question of whether that violation was in fact by the government, or was by a neighbor, or was by a criminal, with nothing to do with a political motive.

So I think that that ACLU study also shows that they, with a large program, have been unable to come up with any evidence of persecution targeted at deportees.

Mr. BONIOR. Thank you.

Mr. MOAKLEY. Congressman Frost.

Mr. FROST. I would like to pursue this a little bit more, if I can.

As I mentioned in my opening statement, this is a major issue in the area that I represent, Dallas, TX. We have a number of El Salvadorans in Dallas, the churches in our city have taken an active interest in this.

I am sure you are aware of some of the things that have gone on, and I would like to pursue the matter that Mr. Bonior opened. A list of countries where extended voluntary departure status has been granted.

It is interesting to me, how do you distinguish between what is going on in El Salvador and what is going on in Lebanon right now?

Mr. ABRAMS. That is a difficult question to answer, and it is comparing apples and oranges.

Mr. FROST. Well, you have a situation where the United States has intervened in both cases. We have military presence, of course, in Lebanon. We have not had direct military presence in El Salvador, but we have similarly provided substantial military aid in El Salvador, just as we have in Lebanon.

It seems to me that we have significant civil strife in both countries.

Now, you can certainly make the argument that the situation is not as dire in El Salvador as it is in Lebanon. But do you think that we have very much of the same thing going on with the similar posture in the United States?

Mr. **Abrams**. Well, you certainly have substantial amounts of violence in both places, and civil upset, and difficulty in—economic problems are very large in both places, in terms of an individual to be able to just live their lives, and earn a living.

I would certainly draw a very large distinction, once again, on the question of the problem of illegal immigration. I do not believe, and in fact, we have had EVD's from Lebanon for a while, there is no evidence that it has caused a huge amount of illegal immigration from Lebanon, which was, in any event, not a country from which there was a history of illegal immigration.

One distinction I would make is the kind of thing that came up recently in a survey, the Spanish TV network, SIN, did on election day in El Salvador. They asked people, they said, would you like to go work in the United States if you had the opportunity. And 70 percent said yes. El Salvador is distinguished from Lebanon, I would say because El Salvador is a country from which we have a huge historic amount of illegal immigration, and to fail to take that into account with the EVD decision I think would not be sensible.

Mr. **Frost**. So is the overwhelming consideration the number of people who are likely to exercise this, rather than any other factor?

Mr. **Abrams**. I would not say it is overwhelming in each case, because each case is different. In the case of El Salvador it is a very important consideration.

Mr. **Frost**. More important than the foreign policy implications?

Mr. **Abrams**. I do not think the foreign policy implications, personally, are that large.

The decision to permit EVD really would be based to grant EVD on a number of considerations, but, you know, what would be—what would the implication be, that we lost faith in the Government of El Salvador?

Clearly, with the election of President Duarte there is a renewed faith in Washington, in the administration and out of it, in the Government of El Salvador. And I do not think that EVD decision would really have a large impact on that.

Mr. **Frost**. I am just trying to understand fully the rationale for the posture that you are taking, by the Department, and clearly, the number who would exercise it, appears from your statement, to be a major consideration.

Mr. **Abrams**. Well, there are, I guess I would say, immigration policy, but there are other questions besides.

For example, suppose that you, as a Border Patrolman, apprehend someone on the Mexican border, it is a fact, which the Attorney General has himself testified to in the last month or two, that a growing proportion of people coming across the Mexican border are not Mexicans. They are from other countries.

When you apprehend someone who is undocumented on the Mexican border, and attempt to deport him or her, and that individual says hold it, I am Salvadoran, under this legislation, what do you do?

There are a lot of complications which would arise under the rubric of immigation policy, which I think go beyond just the question of how many people would exercise this.

Mr. **Frost**. OK. Well, that point is important, because looking at the letter that is attached to one of the two statements, the letter from the Attorney General, William French Smith, the letter in response to Mr. Moakley, and to others of us who sent the letter last year. [See p. 13.]

The second page, the Attorney General makes the statement:

> In defending, not granting extended voluntary departure status, it is also clear that notwithstanding our improving economy, the continuing problems of unemployment and budget deficits can only be exacerbated by any action that would increase substantially the number of people competing for employment and social services.

If seems peculiar to me that the Attorney General is making the point, as you have, about the number of people that would be affected, and at the same time that the administration is supporting the immigration bill before us today, which would grant amnesty to large numbers of people already in this country, and the bill, I assume the administration is still supporting the legislation as amended by Mr. Panetta, that would bring in hundreds of thousands of guest workers in this country.

So I just wonder about your concern about the number of people affected, when you are supporting legislation on the floor, of immigration legislation on the floor, which is also going to have the exact same effect, to substantially increase the number of people here in the country, who are now going to be permitted to stay legally, or permitted to be brought in for a particular period of time, as the Panetta amendment would do, it seems to me that the administration is not being entirely consistent on that point.

Mr. **Nelson**. Maybe if I could, Mr. Frost, answer that.

Before getting to the last point, let me just supplement Mr. Abrams in one respect.

If you look at your committee foreign list of countries that have had EVD, I think you will see that really all, if I am reading the dates right, all but Poland had been in existence prior to this administration. I think we can safely say that we look at extended voluntary departure as really an extraordinary administrative remedy to be utilized very sparingly, because we ought to be using our ordinary laws, the Refugee Act, immigration laws, and so forth.

So I think it is something that we could safely say that we would not use a great deal. A number of these have been continuous, have been in existence in the past. That is one factor

I think Mr. Abrams did very well state that you have to look at the various factors, immigration concerns, foreign policy concerns and the humanitarian concerns, and you balance all of those, on a case-by-case, nation-by-nation basis.

So, you cannot just compare Poland with El Salvador, for example. Certainly the immigration concerns are, as I think you stated well, not only numbers, but opening up the door, and so forth.

We feel very strongly that that is why this bill is not a good one. To mandate by statute an EVD program, when it should be a matter of Executive discretion, and a very narrow one at that, would not be a good policy.

Now, on your comparison with the debate on the current immigration bill, I do not really share your analysis. I think on several folds, the old thrust of the immigration reform legislation, which is obviously a very strong bipartisan bill, has been, and it remains that way, and we think it is important that it remain that way, and the House has assumed that here in this last week, is that we need to regain control, we need to do whatever we can to deter illegal immigration; the sanctions relate to that.

The amnesty part, I think, is looked at as properly balancing, that these people are here, they have been here for many years. That is why the administration favors the Senate date of 1977-80, because it is not just being here, it is establishing roots.

We all know that we cannot just have a mass roundup and get them out. So we want to try, as much as possible, on a balanced method, to get tougher on enforcement.

We appreciate the Congress' support on better border enforcement, more dollars to support, and that helps. The sanctions will also help a great deal. The amnesty will be a balancing factor.

On the temporary farm workers provisions, the Panetta amendment, the administration was neutral on that; we were not pressing that. We think there is need for some temporary agricultural workers. We hope that the Congress can come out with a program that will be a meaningful one, without opening up the gates too much. But we think that is entirely consistent with our policy on EVD. This is another thing, we cannot by administrative action or other legislative action do something that is going to encourage people to come in without coming through the various existing processes and laws.

Mr. FROST. I just want to pursue that one point.

The people in Texas that have been following this problem, and who are concerned about it, have raised the point to me that—this is directly following the line of questioning earlier—that the date on the amnesty provision, even if it is 1982, will not cover a large majority of the El Salvadorans. And you were saying it might cover a one-third, somewhere in that neighborhood.

The people that I have talked to indicate that the great bulk of the Salvadorans who are here would not be covered under even a 1982 date, perhaps.

Mr. NELSON. Well, again, as Mr. Moakley answered, it is impossible to really answer, if you do not know the nature of the entire illegal population. Clearly, there have been illegal Salvadorans coming to this country for many, many years. It is not just a new phenomenon, it is not one related to the violence down there.

So, I would stand by my earlier estimate, particularly the 1982 date, 3 years back. By the time we get started it will be 1985, so a very significant number—I would think one third would qualify. But that is hard to tell.

Mr. FROST. No further questions.

Mr. MOAKLEY. I would just like to reply to the detention situation, that was raised in a prior hearing, and it is not the intention of any one of the 125 members to open our borders to people from El Salvador.

We are just talking about the people there, and I do not think that this legislation would hamper the exclusion of anybody from El Salvador coming into this country.

I think the INS has plenty of case law in that. It could keep people out, and if a perfecting amendment is needed, I will be the first one to put that in line.

I would just like to get back to some of these statements. You said that the humanitarian, foreign policy, and immigration were the three kind of criteria used on the extended voluntary departure.

It just seems to me that probably not enough attention is being paid to the humanitarian part of it, and probably too much to the foreign policy, and it seems to me, and correct me if I am wrong, but if a country is an Eastern bloc, they would have a greater chance of getting EVD, than if a country is in our hemisphere.

Does the proximity have anything to do with the extended voluntary departure? Do you feel it is easier for people to get here from their country, then that would be that much more difficult to extend—extended voluntary departure?

Mr. ABRAMS. That is an element. I would differ on the phrase Eastern bloc. It is not a political judgment. It is a matter of looking at the globe, and looking at past patterns of illegal immigration.

Mr. MOAKLEY. Well, let us just take a look at Poland. You do not see people lying in the streets being shot, beheaded, or whatever. In Poland, they were given extended voluntary departure.

I just think that what we saw happening in Poland, does not come close to what has happened in El Salvador. But in Poland, they get extended voluntary departure, and in El Salvador they do not.

Mr. ABRAMS. Well, we have much more American work being done in El Salvador. We have improved the human rights situation there, because El Salvador is an ally. We have a lot more foreign aid going to El Salvador.

Mr. MOAKLEY. Is it a face saving thing, that we feel we do not give extended voluntary departure, because we have such an investment in El Salvador, and we are supposed to be going on the right track, where we do not have the same kind of investment in Poland and some of the other countries?

Mr. ABRAMS. As I said before, I think the foreign policy side with respect to El Salvador is not all that large.

Suppose for example, we took a decision for EVD for Salvadorans, based on the notion that El Salvador is a friendly government, they have an unemployment problem, and we would like to get as many Salvadorans here as possible, because that way they would have less of an unemployment and displaced person problem in El Salvador. That would not really be a foreign policy argument at all. It would not affect—it would not reflect adversely on the government of El Salvador, it would simply be taking note of the fact that it is a poor country.

I do not think an EVD decision with respect to El Salavdor is essentially a decision which asks you to judge whether they have a good government or a bad government.

Mr. MOAKLEY. No; it is just a human rights decision, how human rights are being handled in that country.

Mr. **Abrams**. Well, I think our answer to that is that we spend an enormous lot of time, if you define the human rights and humanitarian situation broadly, not only on the question of things like the reform of the judicial system, or free elections in El Salvador, but on very large U.S. foreign aid to El Salvador, to help displaced persons, to help through the U.N. High Commissioner Salvadoran refugees in other countries. We really do more obviously than any other country does on that, and the question, it seems to me, is in addition to that do we want to say that any Salvadoran that gets here can stay here.

My argument would be that in the case of a country in which an awful lot of citizens have come here for economic reasons, the refusal to distinguish between refugees and economic migrants is a mistake.

Mr. **Moakley**. What about the recent Supreme Court decision that made amnesty much more difficult to achieve? Would that change anybody's opinion in opening up the extended voluntary departure because amnesty is going to be that much more difficult to obtain?

Mr. **Abrams**. I read the Supreme Court decision twice now and I am trying to understand what it actually means.

The lawyers at the State Department tell me, and I hope your lawyers tell you the same thing, that it does not have any impact on asylum per se. The decision was exclusively with respect to withholding deportation under section 243(h). The grant of asylum, which is under a separate section and under a different standard, well-founded fear of persecution, was not treated by the Court, somewhat surprisingly, in that decision and, therefore, the asylum process itself I think is not affected, is that correct?

Mr. **Nelson**. That is correct. Although I think most analysts of that, Mr. Chairman, would feel that with the Supreme Court's analysis, while correct, they did not deal with asylum per se because that was not the case before them, that their language and reasoning would apply to asylum case. But going on from there, I think what the Court did was interpret the words of the Refugee Act as we think Congress intended them and as had been the practice. So it really did not tighten it up. It was a continuing reaffirmation by the Court of the standard of proof that the Government, that the Congress and administrative and executive branch were applying, rather than a more liberal standard which the proponents were pressing for. So we think that that is proper. Again we do not think that asylum is available. Because not many are being granted asylum, a lot of people, therefore, think that it is not working and that we have to turn to something else.

Mr. **Moakley**. But asylum, you have to point to a specific instance where you will be harmed, incarcerated or killed. Where extended voluntary departure, it is just a general condition of that country, the general violation of human rights that prevail so somebody could be eligible for EVD and not be eligible for asylum.

Mr. **Nelson**. Oh, of course, that is true. There is no question about that. For a person to establish that they are eligible for asylum, they have to show that the likelihood of persecution is directed at them. No question about that. And we think it has to be that way. Otherwise, the burden cannot be on the government to disprove the claim. I think it is properly upon the applicant to prove it, and they have that opportunity.

Mr. **Moakley**. Can I walk through a scenario with you?

It is my understanding, it has been brought to my attention that every Salvadoran has a voting card, it is part of an identification, and when they vote, that card is stamped with a ballot number that they cast, and this has to be on your possession at all times.

If I am incorrect at any time, just jump in.

And it is a violation of the law if you do not vote Now, people who are in this country during election time can then be deported back there, picked up with this identification card, absent the stamp, showing that they did not vote, which is now a violation of the law. How are those people treated?

Mr. **Abrams**. The answer is that if anybody raised the issue, they would say, well, I was in Miami.

Mr. **Moakley**. I was where?

Mr. **Abrams**. I was in Miami or I was in El Paso or I was in Los Angeles. There have been somewhere between one-quarter million and half a million Salvadorans in this country since about 1970, and it is just not a big deal in El Salvador. It is understood that traveling to the United States to make some money, to better yourself and your family is just a sensible thing for Salvadorans to do, and it does not open you to the charge of some kind of political problem.

Mr. **Moakley**. Then you are saying to me that if someone is absent from his home now for a period of a year or two and is picked up by the Government, that they do not even think that he was doing anything subservient to the country or was away for other reasons, that they would just discount it completely?

Mr. **Abrams**. That is right. I think if it were somebody of draft age, he might be in trouble for draft dodging.

Mr. **Moakley**. Well, we have a lot of them of draft age in this country.

Mr. **Abrams**. That is a problem. But we do not have a policy of giving refuge to all Salvadorans who wish to avoid their country's draft.

Mr. **Moakley**. If you have a person of draft age who did not vote and now is sent back to El Salvador, what happens to him?

Mr. **Abrams**. He probably would be drafted I would imagine.

Mr. **Moakley**. Just drafted?

Mr. **Abrams**. Because if there were this record of widescale persecution——

Mr. **Moakley**. It would be funny if he were assigned to the United States.

Mr. **Abrams**. If there were this record of widescale persecution, and I am not talking—we have had church groups say that half the people sent back are killed, but let us say 10 percent are persecuted. Why can anybody not find evidence? We have tried, the human rights groups have tried, we have asked the Salvadoran human rights groups in El Salvador, and nobody has it. I think there does come a point, which you say there is no evidence and everybody is trying to get it and nobody can produce it. It is pretty logical to conclude that there just is not any.

Mr. **Moakley**. Do you disagree, Commissioner, with the figure that 40,000 noncombatants were killed in the last 5 years in El Salvador? Is that not officially accepted by the State Department?

Mr. **Abrams**. No; we never actually used any kind of official figure.

Mr. **Moakley**. Did you hear that figure?

Mr. **Abrams**. We heard that figure. That is not a U.S. Government figure or a Salvadoran figure, and I mean whatever the figure is, it is very high.

Mr. **Bonior**. It is a church figure.

Mr. **Moakley**. Which church?

Mr **Bonior**. The Catholic Church. The same people that you quote in your testimony.

Mr. **Moakley**. Tutela Legal.

Mr. **Abrams**. Yes.

Mr. **Bonior**. I cannot say that it comes out of which diocese.

Mr. **Moakley**. Which would show that there is some violations of human rights going on down there.

Mr. **Abrams**. The question is whether they are targeted deportees from the United States, and our answer to that is we do not think so.

Mr. **Moakley**. You do not think so?

Mr. **Abrams**. No.

Mr. **Moakley**. Well, I would still think if you send some person back of draft age who did not register, did not vote, that they would do more than sign them up in the Salvadoran Army. I would think that he would at least be incarcerated or sent to prison or punished in some way, do you not?

Mr. **Abrams**. Well, if he was legally punished, that is to say if he were arrested and there were a legal legitimate trial, then I do not see on what basis, we would, as a government, be objecting to another country's enforcement of legal fair enforcement of its draft laws. So the issue would really be persecution and not legal action.

Mr. **Moakley**. Do you think that it is dangerous to live in El Salvador today, in today's climate?

Mr. **Abrams**. I think it varies. There are portions of the country where it is very dangerous. There are other portions, particularly in the west, where it really is not dangerous. Where there is almost no guerrilla activity, almost no military activity, and things are, relatively speaking, quiet. So I think it varies a lot.

Mr. **Moakley**. Congressman Bonior?

Mr. **Bonior**. If I was—to follow up on Mr. Moakley's questions—if I was a man who lived, for instance, in the Sun Vincent Province of the eastern part of the country where a lot of military activity is and where the rebels have had controls at various points and I wanted to leave, and I left, and I went to one of the refugee camps, which is not a very pleasant place to be, or I decided to move north and eventually came to the United States, are you suggesting that if I was gone say for 6 months or a year, and somebody showed up at one of these towns, sort of borders being controlled by the Government and being controlled by the rebels, that I would not in any way be subjected to any intimidation by either side, either the guerrillas or the Government? If I all of a sudden, a male of my age showed up a year later?

Mr. **Abrams**. By virtue of the fact that you had been deported from the United States and had been in the United States, then deported from it.

Mr. **Bonior**. No; to the fact that I had been absent for a year.

Mr. **Abrams**. No; I think what would happen to you is that if you were of the appropriate age, the Government might try to draft you, and we now know from newspapers and from the U.S. Embassy reports that the guerrillas might simply attempt to dragoon you into fighting for them. But not because you are absent.

Mr. **Bonior**. Can you understand the reluctance of wanting to go back?

Mr. **Abrams**. I can understand the vast preference of any and all Salvadorans for living here to living there.

Mr. **Bonior**. That aside, let us assume that I went to Guatemala, which is none of—you know, it is not Miami, for heaven sake, a number of deaths in Guatemala approaches what they are in El Salvador. Let us assume I went there instead of going to the United States.

Could you not understand my reluctance to want to go back to this town that borders on a military battleground in that part of El Salvador?

Mr. **Abrams**. If you had that reluctance, then I would simply state that we do not deport people to towns. We deport them to countries. Do not go there. Go to a different place in El Salvador.

Mr. **Bonior**. Well, I have heard that argument before as it applies to people in my own district who connected jobs in Detroit and migrate down to Houston, and then people tell me, well, they have roots and families and it has not been easy not to go back to an area that you had come from, especially if you are deported back.

I have just one other question, and that is in the three things you mentioned, humanitarian, foreign policy, and immigration policy as being factors in determining your—the extension program, I think one thing seems clear to me anyway that you have left out, and that is domestic political policy.

It seems to me that if I was a Haitian or Salvadoran, I would have a much less chance of staying in this country than if I was a Pole or, as Mr. Frost brought out, a Lebanese. As far as I know, the Salvadorans and the Haitians do not have any political organizations in this country that approaches political clout like the Lebanese community or the Polish community or the Polish-American Congress.

Now, to what extent do you base your decisions on domestic political input to these decisions?

Mr. **Abrams**. We do not base them on domestic political input.

Mr. **Bonior**. None whatsoever?

Mr. **Abrams**. Let me say I cannot read other people's minds. I do not base my recommendations to the Secretary on domestic political considerations.

I might say if domestic political situations were governing, they would have a very different policy than the one we have now. We would not have the almost identical rate of approval for El Salvador and Nicaragua asylum applicants. I mean if we were trying to push a certain political line. We could give EVD to a lot of countries and take it away from others if we were looking to propitiate domestic political bases, but that is not the basis of the policy. It would be in the political interest of the administration, in my view, speaking personally, to grant EVD to Salvadorans right now. But there is no sense in doing it from the policy point of view.

Mr. FROST. Mr. Chairman, I would like to follow up on one other thing.

Mr. MOAKLEY. Congressman Frost?

Mr. FROST. I want to go back to a statement that you made earlier, and I am not sure that I understood it correctly, so I want to make sure that there is no question.

Were you saying that to grant the extended voluntary departure status right now would undercut the current Government of El Salvador, would somehow show that we do not have confidence in the current government of El Salvador, and that is one of the reasons that it is not being done?

Mr. ABRAMS. No; I was suggesting that that would not be the case; that the grant of EVD would have no particular impact on that Government or on our relations with it. I am not even sure what the view of the Government of El Salvador is actually as to whether we should grant EVD or not. We have never asked them, and I have never heard anybody from that Government express an opinion on that question. But I do not think we would have any impact.

Mr. FROST. So you are telling us that our attitude toward that Government and our relationship with that Government, our concern for the status of that Government has nothing to do with the decision on whether to grant or not grant extended voluntary departure status in this case?

Mr. ABRAMS. That is my view. I have never seen that discussed, to my knowledge, in State Department discussion of this question, that is the notion that it would at this point significantly undercut the Government of El Salvador. I think if there are people in the Department who hold that view, I guess, you know, the best way to respond to that is to do so with a sort of official response to the record because I do not know that I have ever seen an official Department statement of that, and I think and I hope I reflect the Department's view in saying that it would not undercut that Government.

Mr. FROST. Why would we have granted it in the case of Nicaragua and not in the case of El Salvador if we were not concerned about our views toward that particular government?

Mr. ABRAMS. Well, that, first of all, was the Carter administration, and I am not privy——

Mr. FROST. The United States.

Mr. ABRAMS [continuing]. To their reasoning at that moment.

There is a tendency to use EVD when there is a quick sort of moment of a break in order in a country. That is, you know, Haile Selassie falls or Somoza falls and there is a great amount of disorder.

One of the reasons for granting EVD at a moment like that is that it is very difficult to determine whether people have a well-founded fear of persecution until the political situation crystallizes 6 or 12 months or whatever it may take. That, if you look back, is one of the reasons for the grant of EVD in a number of cases. I imagine that that is what the Carter administration did around the time of the fall of Somoza, and then they ended it after what, 1 year, I think it was 18 months actually.

Mr. **Frost**. No further questions.

Mr. **Moakley**. Mr. Secretary and Mr. Commissioner, I am sure you are aware that in the State Department authorization passed last year, there is a sense of the Congress' resolution that falls square on this issue here. But I suppose nobody pays attention to the sense of Congress' resolutions, do they?

Mr. **Abrams**. We pay attention to the sense of Congress' resolutions——

Mr. **Moakley**. You just do not enforce them.

Mr. **Abrams**. Well, we do not enforce them if we have a strong policy disagreement.

Mr. **Moakley**. Mr. Derrick, any questions?

Mr. **Derrick**. No.

Mr. **Moakley**. Gentlemen, thank you very much for coming here this morning.

Mr. **Abrams**. Thank you.

Mr. **Nelson**. Thank you, Mr. Chairman.

Mr. **Moakley**. The Chair will call Congressman Moody up to the table for an introduction of one of the members of the religious panel.

The Chair recognizes Congressman Moody.

STATEMENT OF HON. JIM MOODY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. **Moody**. Thank you, Mr. Chairman.

Let me say at the outset that I am very pleased to be here today. I am very pleased to be a coauthor of this bill, and I applaud the Chairman's bringing this very important matter to the attention of Congress.

Mr. **Moakley**. I thank you very much for being a cosponsor.

Mr. **Moody**. I would like to introduce a friend and a colleague from Milwaukee, Rabbi Silberg, who is the Rabbi of Emmanuel Synagogue in my community. He is a recognized moral and intellectual leader in our city as a man who has achieved high academic honors. He has considerable publishing credits both in scholarly journals and in mass circulation of the media, such as the New York Times. In addition, he has a number of athletic and endurance records to his credit.

Mr. **Moakley**. He should be on this side of the table.

Mr. **Moody**. Rabbi Silberg is involved in a wide range of current activities demonstrating his commitment to humanitarian causes, international peace, and better relations between races and religions throughout the Nation. He has been active in a sanctuary program in Milwaukee for refugees from El Salvador, and he is a Commissioner of the Milwaukee Commission on Community Relations. He is a member of the Religious Committee for Nuclear Freeze, and he is chairman of the Clergy Division of the United Way campaign and a number of other credits too numerous to mention. So I am very pleased to have him here, and I am very supportive of what I believe to be his testimony before you today.

Mr. **Moakley**. Thank you very much, Congressman.

Welcome, Rabbi. You will be joined by Dr. James Cogswell. Please come to the table. Dr. Cogswell is the associate general secretary for Overseas Ministries of the National Council of Churches of Christ. Also Bishop Antonio Bevilacqua, chairman for the committee on migration and tourism of U.S. Catholic Conference, Bishop, we are pleased to have you.

Also Mr. Don Bjork, associate executive director of the World Relief of the National Association of Evangelicals.

Gentlemen, thank you very much. First of all, the Chair and the committee welcome you coming to testify, and we understand that a lot of you people came quite a distance to give both yourself, your time, and your energy, and the panel is very interested in hearing you this morning.

The Chair will first hear from Dr. James Cogswell.

STATEMENT OF DR. JAMES COGSWELL, ASSOCIATE GENERAL SECRETARY FOR OVERSEAS MINISTRIES, NATIONAL COUNCIL OF CHURCHES OF CHRIST

Dr. **Cogswell**. Thank you, Mr. Chairman.

My name is James Cogswell. I am associate general secretary of the National Council of Churches of Christ in the United States of America. I'm Director of the NCC Division of Overseas Ministries, of which Church World Service is a major component.

I appreciate the opportunity to appear before this distinguished panel in support of H.R. 4447, along with distinguished colleagues representing the broad spectrum of the U.S. religious community.

And on behalf of thousands of Protestant Church people across the country, I want to thank you, Mr. Chairman, for introducing your bill, and for your leadership over the past years in seeking protection for Salvadorans who have been displaced from their homes.

I would like to request that the written statement, which has been prepared, be made a part of the record.

Mr. **Moakley**. Without objection.

Dr. **Cogswell**. And I will make a few comments to highlight some items within that statement.

First, this is an issue on which we in the religious community, I believe, are uniquely qualified to comment. In both El Salvador and in the United States, it is churches which have worked with those within the Salvadoran population most precariously situated.

In El Salvador, churches assist those displaced by the violence, who would not dare go to the government, or to other groups for assistance. Many are necessarily housed on church property in El Salvador, to prevent their being abducted, or otherwise harmed.

The stories which can be related about displaced Salvadorans are indeed distressing. Many sequested in Salvadoran churches are afraid to even look out the window for fear of being identified or harmed.

The real tragedy in the context of this legislation is that those deported to El Salvador often become part of this ill protected displaced population.

Similarly, here in the United States, it is churches and synagogues which assist Salvadorans, who would not wish to risk deportation by going to the Immigration Service for protection or assistance.

Thus, we and our Salvadoran colleagues in El Salvador daily come in contact with people which government officials and many nonchurch people know nothing about. We see them face to face.

Our churches have come to know, and have internalized the stories and traumas of the Salvadoran people in our midst.

Second, our unique personal contact with the Salvadorans continues to feel the need for this sort of legislation. Violence from both the right and left continues in El Salvador, taking its toll on the citizenry.

In the meantime, our Nation continues to deport about 100 people per week to El Salvador, into this situation of generalized violence. Cases have been documented by the ACLU, who will be testifying later, and other groups of people, who have been killed, or have disappeared, or been harassed upon their return.

American church delegations which have traveled to El Salvador have been told by our church counterparts there that deportees do suffer, and frequently end up having to depart El Salvador again.

Third, much has been made of the argument that those coming here are economic migrants, otherwise they would have accepted the safe haven available to them in Central America and Mexico. It does not take great insight to know that this simply is not an accurate generalization. Safe haven, in our experience, is not generally available in the region. Governments in the region are to be commended for permitting the refugees to remain in their countries, however, a mistake—often made, is to determine this to mean refugees are protected.

In fact, refugee camps have been attacked, Salvadorans trying to reach camps in Honduras have been killed, as the written statement indicates. And sometimes assistance is inadequate, or employment unavailable in Central America and Mexico.

Given these facts, to criticize Salvadorans for coming to the United States is to be insensitive to the realities of life for refugees in a politically and an economically unstable region.

No doubt additional information is needed before we can responsibly set national policy on this issue. The reports required in H.R. 4447 should not be taken lightly. Potentially they provide the basis for future policy, not only related to the deportation issue, but also pertaining to assistance that might be given in Central America to provide more sufficient safe haven in the region.

However, given the documentation that is already available, and in our case, what we have seen and heard from our church people in El Salvador, and the rest of Central America, a suspension of deportation is more than warranted, while we further study the situation.

Again, Mr. Chairman, we commend the subcommittee for addressing this very important issue, and you may be assured of our wholehearted support for this bill, and we will assist in every way possible to see its passage.

Thank you.

[Dr. Cogswell's prepared statement follows:]

STATEMENT

of

THE REVEREND DR. JAMES COGSWELL
ASSOCIATE GENERAL SECRETARY
FOR OVERSEAS MINISTRIES

DIVISION OF OVERSEAS MINISTRIES
NATIONAL COUNCIL OF CHURCHES OF CHRIST
IN THE U. S. A.

Thank you for this opportunity to express the views of many within the religious communities in the United States on H.R. 4447. The bill would require a White House study on security and humanitarian conditions as they pertain to Salvadorans who might be returned to El Salvador from the United States. The bill temporarily suspends, in the interim, for up to three years, the detention and deportation of Salvadorans here. Church World Service and its 31 member protestant communions are much in favor of passage of this bill.

We have a longstanding and profound concern with the situation faced by El Salvadorans fleeing violence and civil warfare in their homeland. We have become increasingly concerned with the plight of Guatemalans, Hondurans and Nicaraguans fleeing rising levels of violence and civil conflict in their countries. Our interest and involvement in this issue stem from the Christian Biblical and humanitarian mandate to aid the hurt and hungry and "to speak up for those who cannot speak for themselves." (Proverbs 31:8)

Since 1946, CWS, LIRS and their member communions have resettled over 430,000 refugees, primarily through the efforts and contributions of our local congregations throughout the country. Our many years of aiding and resettling refugees have given our churches much experience in refugee ministry, out of which has grown a deep commitment to refugees themselves. Our experience here and our relief and development work in many countries around the world have made it possible to understand and even live the experience of oppression and persecution under repressive governments.

As conditions in El Salvador deteriorated in 1979 and 1980, increasing numbers of El Salvadorans began arriving in our communites in this country, especially in the Southwest. Frequently they came to our churches seeking assistance and protection, telling horrifying stories of military battles in their communities, brutal murders of family members or neighbors, or attempts on their own lives. The clergy and laity of our local congregations perceived that these new undocumenteds were not simply persons seeking jobs or economic betterment. Rather, by their own stories, by their behavior, by what is known of the situation in El Salvador, and by what the common understanding is of the definition of a refugee, our people in local churches recognized and responded to these Salvadorans much as they have to Indochinese, Africans, Afghans, and others who have come in recent decades.

Our congregations have heard the stories told by these people of the killing of parents in front of children, and of decapitated, mutilated bodies a common sight on city streets and country roads. The consequences of military operations and combat in much of the county have been described to us. We have read the newspaper reports and seen the vivid television images of violence and civil warfare. We have read the statistics of violent death in El Salvador, numbers which exceed those of virtually any other situation of conflict in the world today.

As a natural Christian and humanitarian response to the cries and perceived needs of these suffering people, our churches have reached out to provide material, emotional, and spiritual aid. Since early 1980, when the tragic death of seven Salvadorans in the Arizona desert shocked the consciences of many Americans, increasing numbers of church members and entire congregations have become involved in aiding and ministering to Salvadorans, Guatemalans, and other Central American refugees arriving in their communities. Literally thousands of church congregations are today involved in gathering foodstuffs, clothing, and other items and in providing temporary shelter for those seeking refuge.

In response to overwhelming needs, over 30 local service and legal-assistance projects with full-time staffs have been organized through ecumenical church efforts in communites from

Los Angeles and Texas to Boston and Seattle. With apprehensions and deportations of Salvadorans numbering in the thousands, most of the projects have concentrated efforts on informing refugees of their right to apply for asylum, assisting them to do so, and securing release of detained refugees. Despite extremely limited resources, projects have helped prevent or delay deportation of many refugees: three of these projects each have assisted over 2,000 Salvadorans to apply for asylum. While saving people from deportation is top a priority, these projects do not ignore the overwhelming basic survival, medical and mental-health needs of the thousands of refugees in their communities. Salvadorans have arrived with bullets still in their bodies, or other untreated injuries suffered in the warfare or during their escape, and many bear deep emotional traumas. These refugees must live "underground" in fear of apprehension by authorities and have little or no recourse to established services.

Recognizing the magnitude of this refugee tragedy in our own country, national Protestant churches have provided over $1 million in support funds in the last 18 months to aid these local projects in providing their desperately needed services. We estimate that as many as 300,000 Salvadorans have arrived in the United States since early 1980, most without documents.

Our churches have become increasingly confounded by the unchanging response of the United States government to these people who so clearly seem to be seeking safe haven from warfare and persecution. We are well aware that 300 to 400 Salvadorans continue to be returned each month to El Salvador from the U. S. We have also just learned that Salvadorans now constitute the majority of all detained aliens held in INS detention facilities nationwide.

We firmly believe in the ideals and traditions of this nation as a haven for the persecuted and oppressed. The religious community has always most adamantly upheld the notion of the sanctity of human life. In this context, the continuation of the policy of apprehending and returning Salvadorans to their homeland at this time appears inexplicable. It has become all the more so as reports and documentation have circulated on the fate of several persons returned from the U. S.--individuals who were subsequently killed.

The consternation of the religious community has deepened as a consequence of statements made by officials of the office of the United Nations High Commissioner on Refugees (UNHCR) and by the conclusions of an internal UNHCR study on treatment of Salvadorans in the U. S. The response of the governments of Canada and other countries in the region to these refugees, and the involvement of the government of the United States itself in programs aiding Salvadoran refugees in Central America has severely stretched our credibility regarding our own government's policies.

Officials of the UNHCR have said as far back as mid-1982 that all El Salvadorans who fled their country following the outbreak of civil war in early 1980 were in a "refugee-like situation" and that they should not be involuntarily returned to their homeland. An internal UNHCR mission study of treatment of Salvadorans arriving in the U. S. published in the Congressional Record on February 11, 1982 recommended that:

> UNHCR should continue to express its concern to the U. S. government that its apparent failure to grant asylum to any significant number of Salvadorans, coupled with continuing large-scale forcible and voluntary return to El Salvador, would appear to represent a negation of its responsiblities assumed upon its adherence to the (United Nations') Protocol.

Canada has officially recogized that a substantial number of El Salvadorans outside their homeland are refugees eligible for admission under its refugee resettlement program. Well over 2,000 were admitted last year. Canada's policy treats the U. S. as a country of first asylum for Salvadoran and Guatemalan refugees and implicitly recognizes that there are protection problems for Salvadorans in this country. Over 900 Salvadorans, persons judged by the Canadian government to fit the United Nations' definition of refugee, were admitted to Canada for resettlement from the U. S. in 1983. Many of these were facing imminent deportation by U. S. authorities. No other country in this region systematically deports or otherwise involuntarily returns Salvadorans to their homeland at this time. Salvadorans are recognized as refugees and aided by the UNHCR in Mexico, Belize, Honduras, Nicaragua, Costa Rica and Panama. Guatemalans also are recognized as refugees in Mexico, Honduras, Nicaragua, and Costa Rica, and Nicaraguans in Honduras and Costa Rica.

Church World Service and the Lutheran Immigration and Refugee Service and our member denominations are very aware of all of these responses because we cooperate with the UNHCR both here and in Central America and are involved in assisting Salvadoran refugees to go to Canada and are likewise actively supporting and participating in the relief efforts for refugees in Central America.

Our agency is cognisant of the United States government's own statements on the situation in Central America. Indeed, the State Department has explicitly recognized that conditions in El Salvador have displaced or made refugees of huge numbers of people. A recent Bureau of Refugee Programs briefing paper, Current Refugee Situation in Central America begins by stating:

> Substantial numbers of refugees and persons displaced by fighting and civil strife in Central America have received refuge in neighboring countries. We estimate the overall number of displaced persons in El Salvador and Guatemala may be as high as 800,000.

The State Department Country Reports on Human Rights Practices for 1983 (published February, 1984) states in its section on El Salvador (page 551):

> All human rights conditions in El Salvador are strongly affected by the ongoing civil strife. As is common during civil strife, the achievement of a public order that would protect each person's rights has been disrupted by military operations, partisan hatreds, acts of revenge, the satisfaction of personal grudges, pervasive fear, and a prevailing uncertainty dominated by violence.

The United States government currently provides over 25 percent of the UNHCR budget for assistance to Salvadoran and other Central American refugees in the region.

That most Salvadorans fleeing their homeland can be recognized as refugees even by U. S. policy in nearly every country in the region except the United States itself appears inexplicable in our communities.

To us, it is clear why many Salvadorans fleeing their war torn land come to this country to seek refuge. Conditions, both economic and political, in other countries of first asylum in the region are notably precarious. High unemployment and hostility characterize the conditions faced by Salvadorans in other countries. Those other countries, including Mexico, simply cannot offer available and appropriate safe haven to all who need it. UNHCR estimates that there are already some 300,000 Salvadoran refugees spread throughout the region, 120,000 in Mexico alone. In fact, UNHCR itself currently is only able to provide assistance to about 14 percent of the Salvadoran refugees estimated to be in Mexico and Central America. Some Salvadorans fleeing their homeland make their way here because they have relatives or friends already in this country. And finally, we understand that some Salvadorans come to seek haven here because the United States is the United States, a nation which has long been promoted around the world as a land of freedom from persecution and a place of opportunity to live and work in safety.

While it has been said that the existing political asylum procedure provides the mechanism to identify and protect any persons with a legitimate fear of political persecution if returned, our experience tells us that this is simply not the case. Members of our churches have assisted literally hundreds of Salvadorans in applying for asylum. These are persons whose stories of persecution and whose fears we know to be as real as refugees from anywhere. We see application after application rejected as without merit, while official statistics say less than three percent of Salvadoran applicants have been granted asylum over the last three years.

In the face of this response by our government to the plight of these homeless refugees amongst us, some churches have become increasingly politicized. More and more church congregations have felt that the sanctity of human life is violated by the policy of returning Salvadorans to possible death or persecution in their homeland. Some from among those churches providing "sanctuary" have decided that they must publicly and dramatically protest and challenge current policy by engaging in what appears to be public civil disobedience. Over 100 churches have now publicly announced that they are providing "sanctuary" to undocumented Salvadoran refugees in the face of laws which characterize harboring of undocumented aliens as a felonious act. Some of these sanctuary churches and others have also begun to perceive connections between foreign and military policies with respect to El Salvador and the arrival of increasing numbers and the official non-recognition of refugees in the United States.

Our national church bodies, along with many Roman Catholic and Jewish leaders have, been calling for a halt of the deportation of Salvadorans with increasing urgency over the last three years. In June, 1983, member refugee resettlement agencies of the American Council of Voluntary Agencies issued a Statement on Safe Haven for Central American Refugees asking that "extended voluntary departure be granted on a comprehensive basis to Salvadoran and Guatemalan nationals seeking safe haven in the United States." The document, affirmed by fifteen member agencies including the Hebrew Immigrant Aid Society (HIAS); the International Rescue Committee; the Presiding Bishop's Fund for World Relief; The Episcopal Church; World Relief of the National Association of Evangelicals; and the Migration and Refugee Services of the United States Catholic Conference, noted that:

> the situations of El Salvador and Guatemala, like so many others in the world, are precisely those which motivate refugee flight. That flight is a natural and predictable response by people to escape crossfire and the danger of pervasive random violence. These are situations from which refugees must be protected.

These concerns have been communicated frequently to the Administration, along with the recommendation that extended voluntary departure status be utilized for Salvadorans. In the absence of any other response, we have concluded that such a legislative remedy as H.R. 4447 is the most appropriate measure that can be taken at this time.

We support this legislation not only because of our deep humanitarian concern for the needy and frightened Salvadorans that we find in our midst, but also because H.R. 4447 so well addresses the plight of the Salvadorans. The bill has three sections: 1) a study of Salvadoran displaced persons and returnees, 2) Congressional review of the study, and 3) a three-year suspension of detention and deportation.

We believe that the study is important as it will put the issue of displaced Salvadorans into its national and regional context. In the study, the President must report on the situation of Salvadoran refugees that are currently in Honduras, Mexico, and Guatemala, and the displaced persons that are within El Salvador. It must review the status of food and medical assistance and the protection of those displaced, and make recommendations on ways to improve the overall situation. The study would also report on the fate of Salvadorans who have been deported from the U. S., focusing on human rights violations that may occur upon their being returned. We do recognize, however, the difficulty of conducting the specific component of the study on the fate of returnees under the current conditions of civil warfare. It is not clear that this study alone could produce either sufficiently reliable or credible data unless the general conditions themselves improve substantially.

There is reason to be concerned about the availability of safe haven in Central America. The recent killings of 12 Salvadoran refugees in Honduras seeking protection in that country, reports of the abduction of refugees from UNHCR camps, and assaults on international refugee protection officials have raised considerable concern among our churches. Some of our churches have actually sent personnel to Central America to act as a protective presence in areas of the region where there are large concentrations of refugees. Thus, there is every reason to believe that much greater measures must be taken before the region can be considered "safe" haven for refugees. Hopefully, the President's study will provide some directions on this matter.

This information is very important to the next stage of the process, Congressional review. The House and Senate Judiciary Committees will review the report upon receipt from the President. With the perspective of the report, the committees should be able to formulate policy recommendations that take into consideration relevant domestic and international factors.

The third section of the bill suspends the detention and deportation of Salvadoran nationals in the U. S. for a three-year period. We feel that this temporary stay of deportation while reviewing the Presidential study is the most appropriate action that can be taken at this time. The decision of whether or not to deport Salvadorans should be based upon the conditions in the country to which they are being returned, and the situation confronting refugees in the region.

This stay of deportation is a temporary suspension. It is not an open-ended invitation for Salvadorans to stay in the U. S. indefinitely. It confers upon those benefiting from the stay no privileges other than protection from deportation while the Congress reviews the merits of their case.

As the situation currently stands, many Salvadorans find their only protection against deportation is to apply for asylum. But to receive asylum, the applicant must establish a well-founded fear of persecution upon his or her return and provide extensive documentation of his/her individual case--documentation which few refugees fleeing their homeland are likely to carry with them. In FY '83, only 71 Salvadoran political asylum cases were granted by INS District Directors, and 2,914 cases were denied. Less than three percent of the cases reviewed were granted. Between October and May of FY '84, 281 cases have been granted, while 9,061 have been denied, again only three percent. Even an in-house INS study admits that for a Salvadoran to be granted asylum, he or she must present a classic textbook political asylum case. Even though it is said that the asylum procedure should protect Salvadorans who fear persecution if returned, it clearly is not now doing so.

Asylum is not the most appropriate remedy for Salvadorans in the U. S. who are seeking haven from the war. Many of the Salvadorans our churches have aided have told us their only wish is to go home as soon as they can--when it is safe. Our experience has been that many Salvadorans simply are not interested in seeking long-term political asylum here, or any other permanent status. Yet, under the current system, they are forced to apply for asylum if apprehended by the INS because this is the only remedy available to them.

For these reasons it would be much more appropriate for Salvadorans to be granted a provisional stay of deportation. In the past, extended voluntary departure has been used to provide a temporary remedy for certain nationalities who, due to conditions in their homeland, fear immediate return. It usually has been granted by the Attorney General upon the recommendation of the Secretary of State. Although the criteria for granting extended voluntary departure is not well-defined in immigration law, a review of past grants of extended voluntary departure would appear to based upon civil strife or unsettled conditions in the homeland, as in the cases of Afghanistan, Nicaragua, Lebanon, and Ethiopia or human rights violations, as in the case of Poland.

When considered under this type of criteria, El Salvadorans would clearly be eligible for a stay of deportation. The situation in El Salvador is well-documented, with at least 38,000 civilian non-combatant deaths since the coup in 1979. The human rights situation continues to be horrendous. The House Subcommittee on Western Hemishere Affairs has called for the restructuring of the judicial system and a breakdown of general civil order continues to plague the country.

One of the most telling comparisons is that of the grant of extended voluntary departure to Polish nationals in the U. S. with the situation of Salvadorans. The Poles are certainly deserving of a stay of deportation, and their stay was recently extended until the end of 1984. However, we are compelled to acknowledge that the conditions of violence faced by the Salvadoran population are more severe even than those endured by the people of Poland.

We do not see H.R. 4447 in any way attempting to circumvent the provisions of the Refugee Act of 1980. The refugee act by definition provides protection to refugees and asylees. As we noted earlier, many Salvadorans are not asking for refugee status, nor are we asking it for them. Yet, we know they still fear return to their homeland with valid reason. This bill is only trying to deal with a group of people who unfortunately fall into a category that is not covered by the Refugee Act, or any other existing U. S. law: those who seek safe haven temporarily.

It is clear that this type of remedy outside of the Refugee Act has been seen as necessary in the past. Extended voluntary departure status has been granted 15 times in the past 24 years. Also, this procedure has been used twice since the passage of the Refugee Act in 1980, and at those times the administrative procedure was not seen as an "end-run" around the Refugee Act.

From our understanding of the plight of the Salvadorans and their inability to find protection under the current provisions of immigration law, we find it important to address the broader issues of temporary safe haven. We hope that H.R. 4447 will be a step toward the consideration of this issue. The situation of the Salvadorans forces us to deal with this matter. A stay of deportation has never been quite so necessary for a group of people whose homeland was in such close proximity to the U. S. But while the plight of the Salvadorans requires an urgent and immediate remedy, we do not wish to see an ad hoc nation-by-nation policy begin that has no clear definition in immigration law. For a coherent and consistent and fair policy to exist, clearly delineated criteria and procedures around providing temporary security to persons fearing return to their homeland must be developed.

In conclusion, we wish to reiterate the fact that Church World Service and our member denominations have become heavily involved in assisting the Salvadoran community in the U. S. because of our history of working with refugees and immigrants. We have had the privilege of working on a personal level with many Salvadorans and have come to the conclusion that what we are facing is truly "a crisis of people." Over the past few years we have expressed dismay at the continued policy of deporting Salvadorans. We come in strong support of H.R. 4447. This bill is a modest, and appropriate response to the plight of the Salvadorans in our midst.

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE UNITED STATES OF AMERICA
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Paul F. McCleary, Executive Director

IMMIGRATION & REFUGEE PROGRAM

Dale S. de Haan
Director

Tel. (212) 870-2164
Room 666

April 11, 1984

Dear Representative:

We, as religious leaders and concerned citizens, urge your support and cosponsorship of H.R. 4447 which addresses a tragic product of the current turmoil in El Salvador--the displacement and uprooting of the country's citizens.

The measure, sponsored by Rep. Joe Moakley, requires the President to examine security and humanitarian conditions as they pertain to displaced Salvadorans in their home country and elsewhere in the hemisphere. Importantly, pending the outcome of this White House study, the bill temporarily suspends the deportation of Salvadorans currently in the United States, an action which has been advocated by our churches for many months.

There are few aspects of the turmoil and violence in Central America which evoke more concern among churches than what is happening to the people of that region. An estimated twenty percent of the Salvadoran population alone has been displaced in the past few years, both inside and outside the country. Recent reports by churches, human rights groups, and the State Department have indicated that the conditions which the displaced face--both with respect to their physical needs and their safety--are among the most compelling in the world. These conditions must be examined and appropriate responses devised.

It is in this light that our religious commitment to the care of the homeless and the protection of the needy leads us to ask for your support for H.R. 4447 as an imperative first step in dealing with the situation of Salvadorans here and elsewhere in the hemisphere.

Thank you for the consideration of our concerns.

Sincerely,

Philip R. Cousin

Bishop Philip R. Cousin
Ninth Episcopal District
African Methodist Episcopal Church
President
National Council of Churches

The Most Reverend John M. Allin
Presiding Bishop
The Episcopal Church, USA
Chairman
The Presiding Bishops Fund for World Relief

Bishop Anthony Bevilacqua
Bishop
Diocese of Pittsburgh,
Chairman
Ad Hoc Committee on Migration and Tourism
United States Catholic Conference

Reverend Dr. Charles W. Butler
President
Progressive National Baptist Convention

Reverend Dr. Robert C. Campbell
General Secretary
American Baptist Churches U.S.A.

Reverend Dr. James R. Crumley, Jr.
Bishop
Lutheran Church in America

Walter Farrell, S.J.
President of the Jesuit Conference

Reverend Dr. William H. Kohn
President
The Association of Evangelical Lutheran Churches

Reverend Dr. Edwin G. Mulder
General Secretary
Reformed Church in America

Robert W. Neff
General Secretary
Church of the Brethren

Father James P. Noonan
Superior General
Maryknoll Fathers and Brothers

Reverend Dr. Randolph Nugent
General Secretary
United Methodist General Board of Global Ministries

H.A. Penner
Director
U.S. Mennonite Central Committee

Reverend Avery D. Post
President
United Church of Christ

Dr. David W. Preus
Bishop
American Lutheran Church

Albert Vorspan
Vice President
Director of Commission on Social Action
Rabbi David Saperstein
Director and Counsel
Religious Action Center
Union of American Hebrew Congregations

Reverend J. Randolph Taylor
Moderator of the 195th General Assembly
Presbyterian Church (U.S.A.)

Kenneth L. Teegarden
General Minister and President
Christian Church (Disciples of Christ)

Reverend Dr. Paul Wee
General Secretary
Lutheran World Ministries

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CHURCHES OF CHRIST IN THE U.S.A.

475 Riverside Drive, New York, NY 10115 Room 880
Philip R. Cousin, President Claire Randall, General Secretary

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The United Presbyterian Church in the United States of America

Mr. **Moakley**. What the committee will do, we will hear statements from you distinguished gentlemen, and then we will ask questions at the conclusion of your last statement.

It is the pleasure of the committee now to hear from Rabbi Silberg.

STATEMENT OF RABBI FRANCIS BARRY SILBERG, UNION OF AMERICAN HEBREW CONGREGATIONS AND THE CENTRAL CONFERENCE OF AMERICAN RABBIS

Rabbi **Silberg**. Mr. Chairman, I am privileged to appear before this committee as rabbi of a congregation committed to social justice, and as representative of the Union of American Hebrew Congregations and the Central Conference of American Rabbis.

I would ask that, in addition to the brief submitted by the union and the conference, these remarks I prepared, be included as testimony.

Mr. **Moakley**. Without objection, your entire statement will be inserted in the record.

Rabbi **Silberg**. Eighty-four years ago a 15-year-old girl, with an infant nephew in her arms, traveled unescorted by land and sea from Kiev in the Ukraine to Ellis Island in the Port of New York. She was not fleeing the shtetl of her patrimony for personal gain or to avoid conscription, she was running for her life, just several strides ahead of sabre-wielding Cossacks, intoxicated by an antisemitic sermon preached in rehearsal of the "resurrection."

It was Easter Sunday, her mother and father were massacred, her seven brothers and sisters decapitated and violated. Their dwellings—the books and memorabilia of three centuries in the same home on the same land—their culture, gone forever. She was my grandmother, and in many ways, the characteristic victim of civilization's persistently dark underside.

Hers was not an odyssey in search of life's meaning, I assure you, it was a terrified flight from madness. And on that theme turns the question of H.R. 4447; not on the techniques of foreign policy or on the vagaries of immigration law, or on partisan political privilege, but on the images of Romans fleeing Goths, of Christians disemboweled for sport, of Jews being turned away from the Swiss border to board SS meat wagons, and a boat of refugees called the St. Louis, refused at every port—its cargo, 438 Jewish souls, damned by official indifference.

As the byproduct of progress is complexity, matters of morality, and we represent that latter here—often simple and self-evident—tend to be complicated by the association of issues and disciplines quite unrelated to questions of "right and wrong," "good and evil," "ought or ought not." They are addressed often tangentially and examined geographically, economically, sociologically, and diplomatically; alas, neither historically nor ethically.

The memories of the insidious quota laws that consigned a class of human beings to hell, of the massacre at Wounded Knee that brought the proud Indian nations to their knees, and alienation from the lands of their patrimony, become the precis to ethics—encumbered by compromise, addled by amendment and, finally, stripped of any reference to the simple question, "what is it that is right to do."

It is right to welcome the stranger. It is right to protect the refugee. It is right to comfort the victim. It is right to save life. It is right to defend human dignity and right to debar impulses and initiatives otherwise. And the moral traditions of the faiths which predicate the Constitution of this country, unequivocally hold that asylum be granted to any and every person in quest of freedom; to any soul in search of survival. The stakes are very high: the character of this Nation, its moral integrity, quite apart from its melting pot past, is being tested here.

Shall we grant extended voluntary departure status, a minimal humanitarian gesture, to the approximately 300,000 Salvadoran refugees here? Shall we add them to the list of 16 exceptions made in the last 14 years? The names of the nations have already been stated. Shall we protect them according to the language of that status regardless of "political, racial, ethnic, or social" assumptions? Or shall we treat them as persona non grata, unwelcome opportunists here, as has been stated here, for gain?

To argue that, in the main, they are not here for "life, liberty, and the pursuit of happiness," is to argue against the evidence and reason itself. We have the evidence in formidable array: evidence of savagery, of massacre, of clerics killed, of property expropriated, of recrimination against returnees.

But more, we also know the veil of terror: the fear that knows no distinction—peon or patrician—the anguish that causes the body to tremble, the brain to burst, the throat to murmur involuntarily.

We know that that little republic is a cauldron of violence still, that opinion there has been vitiated, that safety cannot be guaranteed, that ideology has become the makeshift of ambition, that law is unreliable and life cheap. Is it necessary, I ask you, Mr. Chairman, to prove the allegations of the American Civil Liberties Union—I was astounded to hear the other reading by the gentleman who represents the State Department—by Amnesty International, by Freedom House, by the State Department's own report on human rights in El Salvador, the testimonies and tales of the thousands maimed emotionally for life. Would previous proof in any case make a whit of difference? (The War Department had photos of Auschwitz and trains going there; the pilots reported that they could smell the flesh burning; did it make a difference?) And does broadening the question to preposterous proportion—namely, "what do we do with all the other refugees in the world"—bring us to a just answer here?

No. It simply abets the notion that by compounding the question you can confuse what is vast evidence. There is evident moral cause for largess. There is legal precedent for variance. There are evident practical gains in disencumbering the Immigration and Naturalization Service, to destigmatizing the decent, law abiding Americans whose consciences have led them to acts of civil disobedience called "sanctuary," I among them, in relieving President Duarte of the geomilitary, psychosocial and overwhelming economic obligations of repatriation.

Forty-three thousand lives lost in El Salvador, which may be a church figure, but a solid figure, in the last few years, is a proportion of population equivalent to 2.2 million lives lost in this country. To reduce the reality of those lives lost to partisan politics or to "stand unmoved in the presence of bloodshed," or to ignore the apotheosis of terror in El Salvador would be a forfeiture of this Nation's conscience—that is, its historic moral distinction. And should that happen, the words of Emma Lazarus, about the wretched and the refused (sic), become a patronizing and ironic fabrication as we now spend millions and millions of dollars to refabricate the statue that beckons them here in the first place.

Thank you, Mr. Chairman.

[Rabbi Silberg's prepared statement follows:]

BRIEF PREPARED FOR THE TESTIMONY OF RABBI FRANCIS BARRY SILBERG
ON BEHALF OF THE UNION OF AMERICAN HEBREW CONGREGATIONS
AND THE CENTRAL CONFERENCE OF AMERICAN RABBIS
BEFORE THE SUBCOMMITTEE ON RULES OF THE HOUSE
IN SUPPORT OF H.R. 4447

JUNE 20, 1984

Mr. Chairman, I am pleased to have the opportunity to testify this morning on behalf of the Union of American Hebrew Congregations (UAHC), which represents over one million Reform Jews throughout the United States, and the Central Conference of American Rabbis (CCAR), which represents the 1,200 members of the Reform rabbinate in the United States. I am Rabbi Francis Barry Silberg, rabbi of Congregation Emanu-El B'ne Jeshurun of Milwaukee, Wisconsin, and my congregation is one of several synagogues in the United States currently participating in the sanctuary movement and providing aid to Central American refugees.

We believe that the bill being considered today, H.R. 4447, is a vital humanitarian gesture aimed at reducing the suffering of thousands of Salvadorans, and a practical solution to the problem of keeping track of over 300,000 Salvadoran refugees illegally in this country. The Jewish tradition affirms the right of those fleeing oppression or persecution to sanctuary and our own recent history emphasizes the absolute necessity of providing a haven to people fleeing persecution.

The concept of sanctuary is an ancient one in Jewish tradition, going back as far as the Bible itself. The Book of Exodus ordains that a runaway slave is not to be returned to his master, but rather is to be treated as an equal and a brother. Chapter 35 of the Book of Leviticus calls for the establishment of "cities of refuge" which were to be maintained by the Levites, those who were consecrated to the service of God and the Temple. There were to be six of these cities, and they were to serve as places of sanctuary where those who had killed another unintentionally could flee from the retribution they might receive from blood avenging relatives. These refugees were protected by the authority of the priesthood and the authority of God.

The Jewish rabbinic tradition extended this protection even further. If people who had killed, albeit accidentally, were entitled to protection, those who were totally innocent deserved sanctuary even more so. The Talmud states that one who witnesses persecution is morally and religiously obligated to intervene and help the victim, even if this creates a risk to his or her own safety. One who sees or hears a cry for help and ignores it is considered to be guilty of "shfichut dammim," shedding innocent blood. Similarly, one who refuses to help the powerless and the persecuted violates the biblical commandment, "thou shalt not stand idly by while thy neighbor bleeds." Jewish law obligates one to ransom and redeem captives and the unjustly imprisoned, and in pre-modern times Jewish communities used to set aside funds specifically for this purpose.

Our historical memory also prompts us to try to provide a haven for those fleeing persecution. Less than 50 years ago, Jews watched in agony as our co-religionists desperately sought to flee certain death in Nazi Germany. In the 1930's, when refuge might have been granted to many of the six million Jews who would soon become the victims of Hitler's "final solution," the world stood idly by. Even those Jews who undertook the perilous journey to freedom found all too often that no nation would open its doors to them. When the St. Louis, whose tragic voyage was depicted in the film "Voyage of the Damned," arrived at the shores of our own nation in 1939 carrying 486 European Jews fleeing from Hitler's Germany, there was no legislation like H.R. 4447 to provide them even temporary sanctuary. Thus they were forced to return to Europe, most of them to the death camps. In the context of this moral tradition and historic experience, we as Jews feel obligated to provide refuge and sanctuary for those who fear death or imprisonment in their native lands.

About 120 churches and synagogues in over 60 cities nationwide are now providing sanctuary. But the government is beginning to crack down on church workers who are providing sanctuary. The government crackdown threatens thousands of Americans who are risking arrest and imprisonment for their deeply-felt moral convictions. If Extended Voluntary Departure were granted, these arrests and trials would be unnecessary, and committed religious men and women of many faiths would not have to live in fear of arrest for participating in humanitarian gestures of goodwill.

Last month, Stacy Merkt, a Catholic social worker from Colorado Springs, Colo.,was the first person tried and convicted for her efforts to provide sanctuary for Central American refugees. Others like Jack Elder, head of a Catholic refugee center at San Benito, Texas, and Phil Conger, a United Methodist task force leader from Tucson, Arizona, are under indictment for transporting Salvadoran refugees.

Stacy Merkt was convicted by a U.S. district court jury in Brownsville, Texas on May 14. At the time she was arrested, Merkt had been helping to transport refugees from the Casa Oscar Romero Center in San Benito, where refugees are temporarily fed, clothed and sheltered until taken to safer sanctuaries around the country. For this alleged "crime", she faces a 15-year imprisonment and a $6000 fine. She said, "I am not a criminal and neither are the refugees from Central America. My head is not bowed." All of us in the religious communities who are aiding these refugees share her sentiments. We will continue to help them despite the risk of imprisonment because we do not believe that the laws of our nation should make such activities illegal. We are certain that we must continue to act and that we do so in consonance with the fundamental values of our nation. And we are certain that we act within the mandates of our religious heritage which require us to provide sanctuary to those who are in danger.

To say that El Salvador is in turmoil as a result of civil war is not necessarily to criticize U.S. policy in the region. Government forces and rebels from several factions and ideologies have turned the country into a battlefield. Government-backed paramilitary death squads have killed thousands of civilians. In a country with a population of only 4.7 million and an area the size of Maryland, there are few, if any, Salvadorans who have not been affected by the violence - who have not had a friend or relative killed. No one is safe.

No matter who is perpetrating the violence in El Salvador, it is undeniable that it is going on. Those seeking refuge in the U.S. come here out of a genuine fear of death. Those who are returned to El Salvador from the U.S. face an even greater chance of being killed by the death squads and the military, in part because they possess no current identification documents, subjecting them to the suspicion that they are anti-government rebels. Granting these Salvadorans Extended Voluntary Departure status would give them the security to live free from fear until the political situation in El Salvador has stabilized enough for them to safely go home. And most Central American refugees insist they want to go home when the violence ends.

We all hope that President Duarte will be able to effect the political, military and economic reforms he has pledged to work for, and that he will be able to restore democracy and, most of all, stop the killing. But these are tasks that will take time - time which many Salvadorans do not believe they have.

Extended Voluntary Departure does not grant permanent resident status; it is simply a temporary stay of deportation which provides a small bit of humanitarian relief to thousands of beleaguered people. It will cost the government much less to grant this status to the more than 300,000 undocumented Salvadorans in this country than to continue to track down, detain and deport them, and to prosecute those Americans who are trying to help them. This legislation would relieve the Immigration and Naturalization Service of the responsibility for dealing with thousands of cases of Salvadorans applying for asylum. And it frees INS to better allocate their scarce enforcement resources for enforcing cases of undocumented aliens who do not have the compelling case for coming here that the Salvadorans have.

It is the Administration which threatens to politicize this issue by vehemently opposing Extended Voluntary Departure status for Salvadorans. They have granted it for other threatened nationals. Extended Voluntary Departure has been granted 16 times in the past 14 years, most recently to people from Poland, Iran, Nicaragua, Afghanistan, Lebanon and Ethiopia. In light of the fact that Extended Voluntary Departure has been granted to Nicaraguans, it is a particularly glaring omission that it has not been granted to refugees from El Salvador and Guatemala, where the political and military climate is much less stable than in Nicaragua. Granting Extended Voluntary Departure to the Salvadoran refugees is not in itself a condemnation of U.S. policy, and it should not be treated as a partisan issue.

Our common goal is to end the violence and stop the killing in El Salvador. Though there are legitimate differences of opinion as to how to do so, this legislation does not prejudge that issue. It merely acknowledges the necessity of protecting those who are in danger and reinforces the urgency of bringing the conflict to a successful conclusion.

In the past several years, approximately 43,000 Salvadorans have been killed out of a population of 4.7 million. To dramatize that number: the population of the United States is about 240 million. If the same percentage of the population of the United States were killed as has been killed in El Salvador, the number of Americans killed would be approximately 2.2 million. That number is staggering. Can you imagine the U.S. government or anti-government rebels in this country killing 2.2 million people? That is the magnitude of the violence we are trying to slow down by providing sanctuary for Salvadoran refugees.

It is much easier to wash our hands of responsibility than to take the risks involved in acting on their behalf. But I am reminded of the statement by Pastor Martin Niemoeller:

> In Germany they came first for the communists, and I didn't speak up because I wasn't a communist. Then they came for

> the Jews, and I didn't speak up because I wasn't a Jew. Then then they came for the trade unionist, and I wasn't a trade unionist. Then they came for the Catholics, and I didn't speak up because I was a Protestant. Then they came for me, and by that time no one was left to speak up.

We must never let that happen again. We must never be silent in the face of oppression until there is no one left to speak out for us. Jewish history has taught us that we must speak out and act to reduce the suffering of others. If the House passes H.R. 4447 and the Senate S.2131, committed religious men and women will not be forced to risk imprisonment for following our consciences and our faiths, and thousands of Salvadoran lives may be saved. As I write this statement, H.R. 4447 has 146 cosponsors and S. 2131 has 12 cosponsors. I would urge all Members of Congress to support this legislation and work for its passage.

At the end of my prepared testimony I am attaching a sermon I delivered at my Congregation on December 3, 1982, at the time I decided to become involved in providing sanctuary and aid to Salvadoran refugees. It describes my personal struggle with the issue and the thoughts that led me to conclude that it was imperative that I call on my congregation to act.

My own congregation is not alone in the Reform Jewish movement. Congregations in Madison, Wisconsin, and Tucson and Phoenix, Arizona are also aiding Central American refugees. And the Religious Action Center, the Washington-based social action arm of the organizations I am representing today, is preparing programming materials to be distributed to Reform congregations throughout the country and plans to make aiding Central American refugees a priority for the coming year.

In the Talmud, it is said that if one saves a single life, it is as if he has saved the entire world. God has granted us the opportunity to save many lives. We must not abrogate that responsibility. We must not be guilty of standing idly by the blood of our neighbors.

Rabbi Samuel Broude successfully communicated our passion on this issue regarding the propriety of civil disobedience:

> In any discussion of civil disobedience, the question of ultimate purpose is important. If civil disobedience is to have a moral basis, it must stem from moral concerns, from love of man and love of law. The person involved in civil disobedience must be willing to accept the consequence of the law rather than attempt to defy the law and escape from penalty. He must be one who loves the law and mankind.

I am here today because of our love of humankind and of law. I know that because we all share this common love and this common goal, this Subcommittee will push for passage of H.R. 4447.

OF SANCTUARY AND REFUGEES

Rabbi Francis Barry Silberg
December 3, 1982

When I first heard that Rembart Weakland planned to endorse a policy of and provide sanctuary for Latin American refugees, I thought it, in the first instance, courageous, in the second, morally consistent with what "progressive Catholics" call liberation theology, in the third, fitting for the Church, as most Hispanics are Roman Catholic, in the fourth, an extension of the sometimes "trendy" liberal fascination with the underdog, but, in the main, unwise.

Unwise, certainly in the legal sense. Our State Department and the Justice's Immigration and Naturalization Service have not extended political refugee privileges to the opponents of friendly governments - like El Salvador and Guatemala - they consider their flight to this country as embarrassments and those here who receive them as "smugglers." It is a very sticky political wicket and riddled with charges of "giving aid and comfort to the enemy," flouting the law and harboring illegal aliens. The refugees trickling into the United States by way of a new and not terribly well developed underground railroad are not criminals as we assign criminality to conduct, they are not like the few of the many Cubans aboard the Freedom Flotilla freed from jail a couple of years ago who eventually made their ways to detention centers in the States only to act out and be jailed here or shipped back; they are not like the Haitians looking for work or the Mexicans finding it above the Rio Grande surreptitiously, they are very much like Soviet Russia's dissidents - most of them are Catholic, some of them are Jews, all of them are critics of right-wing regimes supported in principle and supplied by us. They are young and old - newspaper men amd women and they are clerics and farmers and intellectuals and peons and have the look of the passengers of Captain Smith's Plymouth.

It didn't occur to me when called that I offer our Congregation as a sanctuary for one of the refugees en route and now sheltered by two churches here. First of all, I haven't the right. The Congregation would have to make that decision with me. Because, as push might come to shove, then the T-Men come to the door with a warrant for someone's arrest, I know that my name would be on it and so would Bob Kohn's. It also didn't occur to me to call the Social Action Committee chairman Jim Zucker right away to mobilize at least written support for the effort. And, frankly, I'm distressed that the press of my own schedule blunted my wits, for had I had them about me I would have remembered the strong public position I took on Nicaragua and El Salvador a few years ago with the Archbishop. But, I didn't. Thanksgiving came and went and a conversation with Saul Sorrin (who spoke at last night's ecumenical service at the Cathedral) caused me to think about the new refugees and to wonder again, why it is, as a Mexican social-philosopher once said, we invariably support Central American victimizers, never their victims: Papa Doc in Haiti, Somoza in Nicaragua, Batista in Cuba, now D'Aubuisson in El Salvador and Rios Montt in Guatemala. He even said (and I'm now inclined to agree) that had we disavowed Latin America's dictators and been faithful to the Monroe Doctrine of democracy in this hemisphere we might have saved Castro for ourselves - after all he did study and live here happily for several years. And said that he learned the preciousness of freedom here.

It also caused me to think about our own refugees, the Wandering Jews cast out or running for their lives from Crusaders or Cossacks or "galachim." And I remembered the cities of refuge set aside by Moses and Joshua to receive fugitives who had been unfairly acused or who had killed someone unintentionally and were being hunted by blood avenging relatives. And I remembered that, in ancient Israel, one could flee to a sanctuary and be safe because killing in a holy place was considered extremely sacreligious. I remembered Jacob fleeing from Esau to Laban and fleeing from Laban to find refuge in Beth El, the Sanctuary of God. And I remembered the boat from Bremer Haven with 486 Jews which found no haven and limped back to hell, and those insidious 1924 quota laws which kept them out because they weren't Anglo Saxon Protestants. Yesterday's law often becomes today's shame!

And I remembered the Jew's obligation to ransom the captive and how we barked at Roosevelt and Pius XII because they didn't. And I remembered the "mezuzot" on our doors and how they say "safe haven" to the wanderers and the needy. In here, they say, you will find food, shelter and faith. And I remembered the Jews turned away from the European borders to be shot on the spot by waiting S.S. and the Christians who took some of the lucky ones in for the duration and the Christians who got caught doing it and what happened to them.

And I remembered the admonition to "free the captives," and wondered what would have happened to the fugitive Moses if Jethro hadn't taken him or Joseph hadn't Potiphar sheltered him. I wondered where in the world I'd be today if my Bubby at age 14 fleeing with her two year old nephew in her arms, alone and afraid, her family massacred in Kiev, had nowhere to go eight decades ago.

And I wondered about civil disobedience and its consequences and why, at age twenty, I would march in Selma to change bad law and at age forty might use bad law and bad foreign policy and bad manners to excuse a certain cowardice. And now I know that it wasn't a certain cowardice at all but a certain indifference. I'd been indifferent. And let me tell you the road to hell isn't paved with good intentions - it's paved with the pusillanimous prattle of people who say "isn't their problem." It's our problem. Now more so now because we know that some of the refugees are Jews but because all the refugees are human beings and victims of oppression. And while our vaunted State Department figures out a way to get out of this mess and its commitment to the John Birch of El Salvador (called "the butcher" by ex-ambassador White) D'Aubuisson, and the corrupt Rios Montt of Guatemala (the poorest and most inequitable country in Central America) unless sanctuaries are established here, thousands of lives will be lost. The policy may be changed, like the quota laws of 1924, and support for one tyrant will shift to another less ostensible one as soon as enough political or economic pressure is brought to bear or until our own intelligence operation can "effect" a change, a la Allende in Chile, but by then it will be too late; too late.

A colleague of mine and I exchanged stories about how and why we became rabbis. I told him mine and then he told me his:

> I entered Birkenau with the liberation forces in '45. I was standing just outside the main gate when an emaciated, sickly inmate walked up to me. He looked at me, hauntingly, for a minute that seemed like a lifetime, and asked "Are you a Jew?" Yes! I said. He slapped me across the face and said, "You're too late." I became a rabbi because I never wanted to be too late again.

Now, I'm going to call the Sanctuary Committee and see what we can do about endorsing and providing sanctuary in this sanctuary. And I pray we aren't too late.

Mr. MOAKLEY. Thank you very much.

Next we will hear from Bishop Anthony Bevilacqua.

STATEMENT OF BISHOP ANTHONY BEVILACQUA, CHAIRMAN, COMMITTEE ON MIGRATION AND TOURISM, U.S. CATHOLIC CONFERENCE

Bishop BEVILACQUA. My Italian immigrant parents would be delighted to know that I am called Antonio, but my name has been completely culturated. My name is Anthony Bevilacqua, and I am Bishop of the Diocese of Pittsburgh, and chairman of the Committee on Migration of the National Conference of Catholic Bishops. And I speak on behalf of the U.S. Catholic Conference.

Mr. Chairman and members of the subcommittee, I welcome the opportunity to present the position of the U.S. Catholic Conference regarding H.R. 4447, which provides for the temporary suspension of deportation for certain nationals of El Salvador for 3 years, mandates a Presidential study of the living conditions of displaced Salvadorans in that country and neighboring countries, and directs congressional review of possible steps to improve the conditions described in the Presidential report. This legislation is simple, clean, and deserves prompt passage by both Houses of the U.S. Congress. Whether or not immigration reform legislation, with a fair and generous legalization program is passed, H.R. 4447 is necessary and deserves prompt action and passage.

The bill before us is both straightforward and simple. The argument has been made that illegal entry into the United States is caused not only by the lure of employment, but also by certain "push" factors which impel people to seek a new life in this country.

The flight of Salvadorans to the United States, due to turmoil in their native land is a prime example. The study provisions in section 1 of H.R. 4447 mandate the President to investigate the "push" factors as they relate to natives of El Salvador.

The action provisions in section 2, to consider the availability of safe resettlement within El Salvador, or in neighboring countries, and to determine appropriate steps to provide assurances of personal safety and adequate, efficient and equitable distribution of assistance, give guidance to Congress in addressing the "push" factors, and will assist El Salvador, Honduras, Guatemala, and Mexico in attaining stabilization of the displaced persons in these countries This very stabilization can go far in making peace attainable in Central America.

Furthermore, H.R. 4447 must be understood for what it ordains. It is limited in scope. The provisions of section 3 do not "grant amnesty" to all Salvadorans in the United States. The provisions do not allow any dangerous individuals to "walk the streets."

Rather, this bill gives temporary relief from the fear of involuntary expulsion from the United States. It states up front that individual Salvadorans who accept the temporary relief that is offered do not develop equities which makes possible future grants of lawful permanent residence.

I must reiterate what has been said on numerous occasions by the sponsors of the bill—this bill addresses a reality which we must face—tens of thousands of Salvadoran nationals are already residing illegally in the United States, and ignoring this reality does not make it disappear.

Reason and compassion applied to the situation through this bill will assist in restoring respect for U.S. immigration laws among those citizens who feel compelled to commit acts of civil obedience against those laws.

The Immigration and Naturalization Service will be able to set aside thousands of asylum applications, and give more timely review to more compelling and less easily resolved refugee situations.

The U.S. Government will no longer be forced to expend $43,000 per cell, creating new and larger jails, nor will they expend the $14,000 per person per year to hold Salvadorans in detention, merely because they are very human, have feared the turmoil in their home country, and have sought refuge in the United States.

The record of the Catholic Church is clear.

Mr. Chairman, instead of reading all these quotes, and I would hope they would be in the record, I would merely summarize that the position of the church has been consistent.

All these quotations here state the same thing about upholding extended voluntary departure.

Mr. MOAKLEY. Without objection, your statement will appear in the record.

Bishop BEVILACQUA. Thank you.

The first statement was made by the Administrative Board of the National Conference of Catholic Bishops, U.S. Catholic Conference, of September 1981.

The second one was made by the statement of Archbishop James Hickey on behalf of the U.S. Catholic Conference to the Kissinger Commission, dated October 1983.

A third one was made by John E. McCarthy, executive director of USCC Migration and Refugee Services, upon introduction of H.R. 4447, November 1983.

And the fourth statement made as recently as March of this year, by Monsignor Daniel Hoye, general secretary to the chairman of the House Judiciary Committee, all supporting this legislation, or the substance of it.

Internationally, the Catholic Church has intervened to diminish the "push" factors which have occasioned the reality which H.R. 4447 seeks to address:

(1) The Roman Catholic Bishops of El Salvador issued a courageously worded Pastoral Letter on February 2, 1984, entitled "Called to be Artisans of Peace."

(2) The international refugee organization of the church, the International Catholic Migration Commission, has reaffirmed its own commitment to migration and refugee assistance activities in El Salvador and adjoining regions. In Mexico, in cooperation with its affiliate, Centro de Estudios y Promocion Social, it is implementing various self-help projects, providing food and lodging for the displaced who find themselves in Mexico. In El Salvador, in cooperation with Caritas El Salvador, it provides camps for displaced persons, and orphanages for children whose parents have died or disappeared in the civil strife ravaging the country, and has taken

income generating initiatives to assist such persons to reach a degree of self-sufficiency.

In conclusion, the sponsors of this bill have given testimony as to the reasonableness of H.R. 4447. They have indicated its consistency with the historical pattern of humane concern for the displaced and refugees of the world.

The conference gives its wholehearted endorsement to these conclusions. Unlike those who might argue that "close proximity" to the troubled area demands harsher and more stringent control over such people, the U.S. Catholic Conference calls for a more magnanimous and compassionate response to the needs of the Salvadorans who will be assisted by this legislation. As stated in the first title of the Refugee Act of 1980, the United States accepts as its historic policy:

> . . .to respond to the urgent needs of persons subject to persecution in their homelands, including, where appropriate, humanitarian assistance for their care and maintenance in asylum areas, efforts to promote opportunities for resettlement or voluntary repatriation, aid for necessary transportation and processing. . .

The U.S. Catholic Conference offers its own commitment to this task, and calls upon the Congress to make fulfillment of that task possible. We urge immediate passage of H.R. 4447.

Thank you.

Mr. MOAKLEY. Thank you very much, Bishop Bevilacqua, for a fine statement.

The next person on the panel will be Mr. Don Bjork, director of the National Association of Evangelicals, World Relief.

How is that, have I done better?

Mr. BJORK. Mr. Chairman, you have done very well with the name, but I am not director of the national association.

I am associate executive director of World Relief of the National Association of Evangelicals.

I have a written statement which I would like to submit for the record.

Mr. MOAKLEY. Without objection, your entire statement will appear in the record.

STATEMENT OF DONALD O. BJORK, ASSOCIATE EXECUTIVE DIRECTOR, WORLD RELIEF OF THE NATIONAL ASSOCIATION OF EVANGELICALS, WORLD RELIEF

Mr. BJORK. On behalf of World Relief and its parent body, the National Association of Evangelicals, thank you for this opportunity to express an evangelical viewpoint on H.R. 4447. Because the bill is quite modest and straightforward, seeking only limited humanitarian objectives, I believe we can generally support its provisions:

A mandated Presidential study of conditions affecting displaced El Salvadorans, inside and outside their country;

A review and report on the fate of El Salvadoran deportees;

House and Senate Judiciary hearings within 2 years; and.

A 3-year moratorium on certain deportations.

Though I would not presume to speak for all evangelical Christians, nor for the thousands of churches within the 47 religious denominations of the National Association of Evangelicals [NAE], this bill seems to balance our historic concerns with our need for a contemporary course of action. Allow me, then, to spell this out.

HISTORIC EVANGELICAL CONCERNS

On issues like the Salvadoran dilemma, evangelicals are a puzzle. By some counts, there seem to be more evangelicals than people, and they seem to come at you from 14 different directions. Compared with the tidy resolutions and statements from other church quarters, we evangelicals can muster precious few.

Once you understand it, though, there is a compelling unity in all this diversity. Let me sort it out for you.

One reason evangelicals are an enigma to many is simply because the word itself can have so many meanings. It may refer, say, to the Low Church party in the Church of England. More likely, however, it's a label for protestant churches that emphasize salvation by faith alone; either that, or it means the same as "evangelistic."

Today, we view those meanings as absolutely necessary but not sufficient. At the beginning of the modern missionary movement, however, salvation and evangelism were on both top and bottom of the agenda. Then as now, this was driven by a biblical view of human need and divine grace: "Since all have sinned and fall short of the glory of God, they are justified by His grace as a gift, through the redemption which is in Christ Jesus." (Romans 3:23, 24)

That being the heart of the Christian Gospel, evangelicals have literally gone to the ends of the earth with this good news. But, in the process (beginning in the last century), we developed an uneasy social conscience, first in the modern missionary movement overseas. There, missionaries confronted raw human needs in monumental proportions. Faced with so much hunger and thirst, disease and disaster, suffering and death, what could they do? They simply demonstrated elementary Christian compassion, a cup of cold water in Christ's name.

And what does the record now attest? Those evangelical missionaries were in the forefront of medical missions, refugee assistance, economic development and other such humanitarian concerns. Paradoxically, however, not until after World War II did this same impetus motivate NAE to incorporate a humanitarian agency of its own.[1]

Make no mistake about it, however; we evangelicals have come a long way in our concern for human need since then. We still believe that the salvation of one's soul is of prime importance, but we have come to realize that Christ Himself had a more holistic concern for the poor and needy * * * yes, for El Salvadorans, who hear the Savior's name.

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[1] Founded in 1945 as the War Relief Commission, its main purpose was assisting in the postwar recovery of Europe. Under the new name of World Relief Commission, that purpose was superseded in 1950 by a long-term commitment to international disaster relief and economic development. In 1979, then, in recognition of World Relief's significant contribution overseas, it was invited by the U.S. Department of State to enter the domestic refugee resettlement program, through which it has now resettled some 45,000 refugees. Again in 1979, World Relief began several projects in Central America, including several programs in El Salvador. Since 1980 it has served as the lead agency in the resettlement of Miskito Indians.

What then is the compelling unity defined by "evangelical"? Anything in, of, or according to the Gospels or the teachings of the New Testament. That applies even to interpretation of the Old Testament.

In this light, then, H.R. 4447 is generally acceptable to us because it seems to be consistent with the Biblical concerns we would like to see expressed in an approach to the Salvadoran dilemma.

A CONTEMPORARY COURSE OF ACTION

To be quite specific about it, our sense of the Scriptures calls for a contemporary course of action that is morally, legally, and ecclesiastically sound.

THE MORAL DIMENSION

Viewed from a moral perspective, the El Salvadoran situation is now askew in almost every area. Within the country itself, Jose Napolean Duarte's election to the Presidency, and that by a clear majority, may well have completed, as Marvin Stone terms it, "Act I of the years-long American scenario for a democratic El Salvador." (U.S. News & World Report, June 4, 1984)

But El Salvador is still wracked by civil war, even amid optimism over Duarte's call for Salvadorans to confront their problems by working together. Even should this approach succeed, it will likely take a long while for the awesome degree of brutality and danger to subside. As someone previously testified for the American Civil Liberties Union, this conclusion seems justified no matter how one ascribes responsibility for violence in El Salvador:

> Whether the "death squads" are or are not the only problem, whether they are or are not controlled by the government, whether or not the government has the capacity or willingness to control them, and whether the violence is predominantly perpetrated by leftists, rightists or the government, it is indisputable that civilians are in serious danger in El Salvador regardless of their political sympathies. (Statement before the House Judiciary Subcommittee on Immigration, Refugees and International Law).

Going a step further, denying or ignoring this danger by U.S. policy or practice seems in itself immoral, considering our presence in El Salvador and the presence of El Salvadorans here. We will continue to violate the consciences of our own citizens—either by callousing them or crushing them—if we take this danger lightly.

In that context, we are delighted with the simple provisions of H.R. 4447. The Presidential study, the review and report, the House and Senate Judiciary hearings should all help this Nation to bring out the truth and face the consequences.

In the meantime, the 3-year moratorium on deportations seems to be the right thing to do for the 300,000–500,000 Salvadorans who are now in the United States, despite the fact they entered without inspection and proper documentation. Though many may well have come for economic reasons alone, others are undoubtedly here for fear of danger or death should they return prematurely to their homeland (where 30,000–40,000 have already died in the civil war). Simple charity would seem to dictate, then, that we give to one and all alike the benefit of doubt, at least for the time being.

It was interesting, the statistical analysis made earlier by Mr. Abrams. If we take the very facts that he gave us, and simply project them, we would see that out of the 250 cases that they were able to follow in the recent study, there was one death. That is 4 in 1,000. Suppose there are 1,000 persons in this building, would we vote to ship them somewhere else if we knew that four were going to die? That is the decision.

Then, too, since extended voluntary departure has been granted to Ethiopians, Afghans, Nicaraguans, and Poles in recent times, the moratorium on deportations is not without historical precedent.

This does not mean, of course, that extension of charity or precedent is per se a moral obligation. Some would argue—even a good number of evangelicals—that the "general welfare" of a country must be considered when it comes to absorbing, integrating, or accommodating such numbers of needy newcomers into a society.

That argument notwithstanding, I think evangelicals as a whole would rather err on the side of grace and altruism.

THE LEGAL DIMENSION

Others will argue the fine points of the law, the ins and outs of eligibility for asylum and the like. Though that is a special interest within my executive responsibility for refugee resettlement with World Relief, I have a more fundamental legal dimension to stress in this testimony. Whatever else comes of the bill's passage, it must somehow take this Nation and its population of undocumented Salvadorans off the horns of contemporary legal dilemmas.

In regard to the United States itself, serious concerns have been raised on treatment of Salvadorans, both from the standpoint of domestic laws in this country and from the standpoint of international law.

In the first instance, questions center on the conduct of immigration and naturalization service agents in the process of handling undocumented Salvadorans. A recent court decision may alleviate this problem somewhat, but H.R. 4447 will ensure constant review.

For several years, however, infraction of international law has been a suspicion. In August 1981, for example, the Los Angeles times reported that "the Office of the U.N. High Commissioner for Refugees has privately advised the Reagan administration that the United States may be violating international law and endangering thousands of lives by deporting displaced Salvadorans to their war-torn homeland." (World Refugee Survey 1983, p. 44.)

Hopefully, the effect on H.R. 4447 will either clear the Nation of that suspicion or, if it is true, stop the practice.

In regard to the undocumented Salvadorans themselves, we now have a furtive class of populants in desperate need of legal relief.

The provision of a 3-year moratorium is a temporary device, but it does provide a sensible solution to the legal problem.

For reasons I will bring out in a moment, evangelicals have not been quick to jump on the bandwagon of the so-called "Sanctuary movement." Many of us believe, however, that the public welcoming of fleeing Central Americans into the care and protection of the church is not without strong Biblical and historical precedent. Thus, when church workers are arrested and sentenced for providing sanctuary, we quite naturally have a certain empathy with them.

Again, we can only hope that the effect of H.R. 4447 will be to create a different milieu—one in which conscience and compassion can be squared with laws of the land.

Beyond these legal dimensions, there thus remains a singular concern:

THE ECCLESIASTICAL DIMENSION

I refer here to our need and desire for a course of action acceptable to the church, with special emphasis upon evangelicals.

Why have evangelicals remained on the sidelines of the sanctuary movement? Not simply because we've heard it might be politically motivated. We are not in the business of judging motives. Our concerns is with the integrity of our own convictions. And, in regard to sanctuary, we are walking a Biblical tightrope between spontaneous compassion for those who have been forced to seek the security of our country and reasoned scriptural convictions on subjection to Government. We take seriously this admonition:

> Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God. Therefore he who resists the authorities resists what God has appointed, and those who resist will incur judgment. (Romans 13:1, 2.)

On issues like the sanctuary movement, then, evangelicals will generally not opt to defy the law or even the heavyhanded or unlawful way it may be administered. In recent times, some evangelicals have chosen this course of action, but most will depend upon the system itself for correction and change. More and more, though, evangelicals are becoming part of the system; and, as politicians, judges and the like, they are accelerating the achievement of just laws, regulations, and administrations.

So this is what we see in H.R. 4447—a reasonable course of action in which we as evangelicals can have a part. We feel the provisions are in harmony with our historic convictions and that the moratorium on deportations is a far more acceptable act than the provision of illegal sanctuary in our churches.

All in all, having considered the moral, legal and ecclesiastical dimensions, we're convinced that H.R. 4447 is deserving of passage and that it will lead toward a reasonably happy end to the Salvadoran dilemma, both here in the United States and in El Salvador.

Mr. **Moakley**. Thank you very much for your statement.

You gentlemen were all here when the administration made their statements and how they articulated viewpoints that were completely different from yours.

How does the panel make a decision on who is right, whether you people in your conclusions are or whether they in their conclusions are right? It is just a general question.

Mr. **Bjork**. Mr. Chairman, that was precisely my point about doubt. I have in my briefing book either an enormous amount of material that we have assessed because of our position, not wanting to move against the Government.

In one instance, it is case studies done by the World Council of Churches. It involves other nations' people looking at us. And then

I hear a statement as I heard this morning, it leaves us in doubt, and that is the strongest argument I think for not deporting these people until we resolve that doubt.

Mr. MOAKLEY. Bishop?

Bishop BEVILACQUA. On two items that were mentioned by the speakers for the administration, one is the return of deportees back to El Salvador. Again we have a doubt there, and I see where one of the purposes of this bill is tc have some kind of study made on exactly what is going to happen to resolve the doubt.

But to say that they have not heard of any kind of action being taken is a gratuitous statement because one could make the opposite statement.

Mr. MOAKLEY. I would think those 40,000 bodies would give them some cause of doubt.

Bishop BEVILACQUA. Well, here we are zeroing in on what happens to those who are deported.

Mr. MOAKLEY. That is right.

Bishop BEVILACQUA. Archbishop Hickey in his testimony, he visited El Salvador with two other archbishops, and he gave testimony before a congressional body here and he said it is our understanding that deportees on arrival in El Salvador are closely questioned by the security forces. Their names are checked with lists of actual or alleged security risks. It is our understanding that those whose names appear on this list, whether rightly or by vindictive denunciation, are in a position of great personal danger. And so in that statement of last year, March of last year, he again urged extended voluntary departure.

But I would like to add one more thing. I think that no matter what happens to deportees, even if nothing happens, I think that is irrelevant to the purpose of this bill. This bill has nothing—it is not based on dangers to those who are deported but what is the general danger to the whole population.

Mr. MOAKLEY. Exactly.

Bishop BEVILACQUA. And that is what you are all saying. There are 30,000 to 40,000 killed. I do not know of any kind of harassment of Poles going back to Poland. There is no inquiry on any other countries, whether it was Poland or Lebanon or Ethiopia or Nicaragua. We were not concerned about that. And when we allowed extended voluntary departure, it was the general destabilization of the country and the danger to the whole population. And I think that is the issue here.

Mr. MOAKLEY. If any one of these individuals could substantiate how they go personally, they were marked for assassination, of course, it is difficult for amnesty, but that is not the question here. The extended voluntary departure would be just a general situation that exists when there are violations of the human rights back in their native lands.

Rabbi SILBERG. Mr. Moakley, the question that you asked is an apt one and it turns again on just who you are going to believe.

I can tell you that the Ruiz family which has sought and has been given sanctuary in our synagogue tells stories, and not simply about its own experience but stories which extend to relatives, to cousins, to compadres, to various other people who have been affected not only in their flight from the country, but in their return.

I tend to want to believe the statements made by people I consider to be utterly honest and righteous in their reports to us, and again to reduce this issue to statistics would be, as one of the other gentlemen mentioned, a base immorality. And we do not simply have the luxury of immorality in this day and age, especially after I rehearsed for you at the beginning of my comments our having turned our backs to others, not simply my people, but countless others along the way. So I tend to believe the people that I have heard and, in my view, they are not singles, they are in multiples of dozens and dozens. They have come by Central American solidarity coalition through the Sanctuary Board and the Native Committee of the Southwest, all the way up to Milwaukee, WI.

Now, I am Jewish. There are very few people coming from El Salvador who are Jews. I can tell you. But my tradition absolutely and unequivocably binds me as does history to having the good sense to understand and to listen and not to measure these things against partisan politics. I believe the people I have heard from, and as I say to you, Senator, they have been in the dozens. Thank you.

Mr. **Moakley**. Dr. Cogswell?

Dr. **Cogswell**. There is very little I could add to the response which has come from the others.

I do think it is a difference in the way that you approach information regarding people. I think that the administration has an overall policy in Central America for which it is seeking to secure statistical support and that support is sought through impersonal means of gathering information such as a mail survey.

When you put it in terms of people, it comes out in a very different way. And the experience of the church is with people, and it is amazing the unanimity of the religious community on this issue. And within Central America we find ourselves in full cooperation working together, across religious lines in defense of human beings and, consequently, the end result is a very different pattern and interpretation of the situation that that which would come through simply a mail survey which does not see people face to face.

Mr. **Moakley**. Thank you. One further question from me and then I will turn to the panel.

Some of the opponents of the bill say that, well, if you give them extended voluntary departure, they are going to be here 3 years, they are going to have an investment in the country, the kids are going to go to school, they are going to buy real estate, they will not leave after the extended voluntary departure is revoked because of the human rights situation back in their own country will have been rectified.

What is your answer to that? Will they stay after the voluntary departure, and I know it has to be general because you are dealing with the State Department's figures, anywhere from 250,000 to 500,000 people.

Dr. **Cogswell**. If I may respond.

Mr. **Moakley**. Dr. Cogswell?

Dr. **Cogswell**. It seems to me that the people who are coming seeking refuge out of El Salvador, as well as out of Guatemala, are people who are very deeply rooted in the land. By and large, they are people whose whole life and tradition and history has been in the land. They leave with great reluctance.

In addition to that group of people, there are those people who have put their lives on the line to work with those people. Social workers, teachers, those who are seeking to defend the rights of the poor. I think it would be a betrayal of who those people are to say that they would turn their backs upon their nation after having invested so much of themselves in it, that they would prefer to stay in this country rather than seeking, when the time permits, that they may return and become part of building a better El Salvador.

Mr. **Moakley**. Rabbi?

Rabbi **Silberg**. Most of the people to whom I have spoken want to go home. That is the land of their patrimony. The images are current to them there. The odors of foods are current to them there. The language is current to them there. There will doubtless be some who will want to stay. So what? The important thing is that this House rule is a wonderful and humanitarian gesture, and whether or not all 500,000 or 350,000 stay is, I think, not necessarily germane for the question and to the problem.

Mr. **Moakley**. Thank you.

Bishop?

Bishop **Bevilacqua**. Yes; I would say I do not know whether they want to stay or not. Our understanding is they do not want to stay. But that is not the issue here.

The bottom line is: Is there danger if they go back. Is there stability there?

Rabbi Silberg mentioned the ship to St. Louis in 1939 which came here and people were not allowed to disembark. We had political reasons for not allowing them to disembark. Maybe we had a fear they would stay here if we allowed them in. The fact is they were sent back and most of them were killed.

So the bottom line is the danger to human life. That is the reason for this bill, not the fear that they might stay.

Mr. **Moakley**. Thank you.

Mr. Bjork?

Mr. **Bjork**. I feel that that question is one that needs to be addressed in terms of some amendment to the existing bill or some future bill itself, because it has been our experience that people do want to go back no matter what their situation, where they have gone to another country but, in all honesty, after they have gone back, they sometimes want to return to the United States.

If some provision could be made to allow for that sort of thing, I think it would also encourage people to come forth and to be recognized as people who have to go back. But I think that when people are here for a few years and enjoy our country, they are looking back to their home country and I think they will want to return. But I am sure that if our experience means anything, many will want to come back here again, and that could be anticipated and made a part of legislation.

Mr. **Moakley**. Congressman Beilenson?

Mr. **Beilenson**. I really have one question at this time, but let me preface my question by apologizing to you four gentlemen. I was called from the room, Dr. Cogswell had started speaking, and I missed all of your testimony except for the last few minutes of Mr. Bjork's. You may have covered this. Please excuse me if you have.

I personally find this whole thing a very difficult question because so much of the world is dangerous and at times a terrible place.

We applaud you for taking the moral fervor in all of the things that you are standing for. I share those feelings too.

My basic question to you, to all of you really, is: Has it been basically your position that there is something special here in the case of El Salvador, or would you feel the same way about people who were here and sought to stay here from no matter what country they came from, if it too were a devastated and violent place? Going back to the first part of my question, does the fact of our involvement make the Salvadorans' case special?

Rabbi **SILBERG**. The context of terror is a ruinous context. It would apply in my estimation broadly to any refugee, victim of terror anywhere, in any of the flash points of this world, Congressman.

El Salvador, in my judgment, is not a special place because of the quality of the terror there. Terror is absolute, and it just so happens that we have people who have traveled to my town, Milwaukee, WI, who are told the tale of terror, and it is an honest one and it is a true one, should that we also, mind you, give sanctuary to an Afghan woman who was denied temporary status as a resident alien simply because she lived in Pakistan for awhile. And we do not have such an association with Pakistan. So I say to you the context of terror, El Salvador is not special, it is just part of that horrible experience people all over the world have.

Mr. **BEILENSON**. So we feel the same way about folks who happen to be here and are fearful of going home in a similar situation?

Rabbi **SILBERG**. I certainly feel that way.

Mr. **BEILENSON**. We all sort of feel that way but, at the same time, we have other things looking at us, including the nagging concern that, you know, that there are millions of such people. Of course they are not all here. There is a difference in those who will be here, fortunately or unfortunately, but we obviously cannot solve all of the world's security problems ourselves. Not that we are urging that here. I just have these conflicting pulls at me, as I guess all of us do.

Of course, also let me tell you this. Once you get personally involved with any person or persons or family, who find themselves involved in this kind of thing, of course it becomes a meaningful experience and involvement and you want to do anything you possibly can to help them.

Bishop **BEVILACQUA**. What seems to be special in El Salvador is the dimension of the terrorism and the fact that larger numbers are here, more so than from some of the other countries that were given extended voluntary departure, and also greater evidence of the atrocities and the killings. That is what we have in this particular case, that it has more variety because of that.

Mr. **BEILENSON**. From time to time, even worse things occurred in other places. In Cambodia 2 million people were killed in the last few years. Those 2 million Cambodians had an opportunity to come to the United States. If they had, I do not know how we would have treated them, whether we would have let them stay here. They could have gone home. I guess it is obvious I am making the point that this is a special problem, at least in the sense that are a lot of folks seeking asylum from that one country here, which is simply not possible in a lot of places where terrible things go on from time to time—Uganda, for example, where you can be granted status. But I take it there are not an awful lot of them here. So it is not a big problem for us in that sense.

Dr. COGSWELL. If I may inject just one comment.

The reality of uprootedness is one of the terrifying aspects of the time in which we live. By far, the majority of those uprooted people seek asylum in their neighboring countries which are far less able to bear that load than the United States is, and the burden upon the Third World nations of refugee populations is all out of proportion to what we have to bear.

The moral issue before the United States is, will we—how will we treat this particular part of the world's uprooted people who have sought safe haven here? We are not confronted in this dimension with those from other parts of the world where, by the geographic reality, they must seek safe haven in a neighboring country. Our issue as a nation is how we treat these people who flee from a desperate terrible situation in El Salvador.

Mr. BJORK. Mr. Chairman.

Mr. MOAKLEY. Mr. Bjork?

Mr. BJORK. I did address that somewhat in my statement.

I indicated that denying or ignoring this danger in U.S. policy or practice, when you consider our involvement, both in El Salvador and in here, becomes an immoral thing, in my opinion.

Now, that is not to say though that we would not be interested and compassionate toward people in any similar situation. But it is to say that when we are involved, as we have been involved, up to our ears, that it compounds the problem. At least it does in my mind. That it creates a moral involvement with the people that could only be settled "then" in a moral way, in a moral dimension.

Mr. MOAKLEY. In answer to Congressman Beilenson's inquiry about the Cambodians, we did give extended voluntary departure to 125,000 Cambodians at that time.

Congressman Bonior?

Mr. BONIOR. Well, I am glad you raised that because not only did we do that in Cambodia but, as Mr. Beilenson mentioned, we did that in Uganda, and I think that the point that the bishop made with respect to the scale and magnitude of what is happening in El Salvador is quite important. There is no other place perhaps with the exception of Guatemala for this amount of violence that is occurring. It just does not happen in Nicaragua. I mean there have been violations in Nicaragua but nothing approaching what has happened in El Salvador.

The only thing approaching the scale that we have heard in these countries is in Argentina, and I suspect somewhat in Chile. But still not approaching the figures that we are talking about.

I would like to turn to another aspect of this issue, and that is perhaps—and perhaps you do not know the answer to this, but perhaps the next panel can address it in their statement.

When Salvadorans are deported back to their homeland, who do they see initially? What agency of the official government deals with them? Is it the treasury police, special immigration police, and someone touched upon that. I believe it was the bishop, archbishop in his findings, but I would like to know a little bit about what type of interrogation and what type of systematic review they go through upon arrival back to their homeland. Is there anyone that could help me with that? I would appreciate it.

Bishop BEVILACQUA. The only thing I know is from Archbishop Hickey telling us that in a final report, when they land, they are questioned by the security police right there at the airport or wherever they enter, and there is a list there of subversives who have been denounced by different people, and they will check the names of those returning with that list That is an arbitrary list; you do not have to give evidence Anyone can put any name on the list. I do not know anything more specific than that.

Mr. BONIOR. Do you know if any agency handles it?

Rabbi SILBERG. It is my understanding that something, which might be called the equivalent of repatriation committee in San Salvador, and as the bishop points out, when they do pass the first list, which is a helter-skelter list in any case, and they get the repatriation committee who sits on that committee, I frankly do not know, no church people do. They are then in quasi-legal straits. What happens to them after that, no one seems to know. They try to make connections with families that in any case are not there. If they do get back to their villages, peer recriminations tend to be as severe sometimes as government recriminations. Why that has happened, we do not know either. But chaos produces this kind of frenzy between people who were erstwhile friends. It is simply a mess when they get back. There is no order.

Again the rights of individuals when they return have been unequivocably vitiated.

Mr. MOAKLEY. Congressman Frost?

Mr. FROST. I only have one observation and I particularly would like to compliment Mr. Bjork on his statement.

Many of the denominations that he represents, evangelical denominations, of course, are present in large numbers in the south where many of the Salvadorans have wound up, and I think it is very important that your organization is supportive of this legislation. And I would point out too that I am in basic agreement with the statements that you made on the last page, that this legislative approach is far preferable to the questionable practice of sanctuary being conducted right now, and that was one of the reasons that I endorsed this legislation because I felt that it was need for a legal remedy. So I think your statement stated that.

Mr. MOAKLEY. On behalf of the committee, I want to thank all of you people for coming here and contributing so much to our panel here today. Thank you very much.

The committee will now hear from the Human Rights Panel, Mr. John Healey, Executive Director of Amnesty International, U.S.A.; Mr. Amit Pandya, American Civil Liberties Union; Mr. Arthur Helton, Lawyers' Committee for International Human Rights; and Mr. Joe Trevino, League of United Latin American Citizens.

All right, the committee will first hear from Mr. John Healey.

STATEMENT OF JOHN HEALEY, EXECUTIVE DIRECTOR, AMNESTY INTERNATIONAL, U.S.A.

Mr. HEALEY. Due to a meeting with another government, I would like to ask permission——

Mr. MOAKLEY. Another government, or another branch of this Government?

Mr. HEALEY. Another government.

Mr. MOAKLEY. OK.

Mr. HEALEY. And to ask permission that my colleague, Rona Weitz, take my place in my absence.

Thank you, Mr. Chairman.

Amnesty International, U.S.A., is pleased to appear before you today. I want to talk this morning about the plight of thousands of Salvadoran refugees in the United States threatened by deportation. We regard H.R. 4447 as a bill that could mean the difference between life and death for Salvadorans. Therefore, we support this legislation.

Since 1979, 40,000 civilians, and I would like to point out we generally are conservative on these kinds of figures, have died in El Salvador's civil war. Salvadorans from all walks of life are the innocent victims. The Government of El Salvador is itself behind a large number of the killings and yet the Government of El Salvador has done virtually nothing to stop the killing and to bring those responsible to account. I refer you to Amnesty International's recent report on El Salvador and ask that excerpts from it be inserted in the record.

Mr. MOAKLEY. Without objection.

Mr. HEALEY. Thank you, Mr. Chairman.

Each year, thousands of Salvadorans are deported. There is no guarantee whatsoever that those deported will be safe in their own country. The facts on the contrary suggest that often they will not be. Some disappear; others are tortured or murdered.

The United States stands out as the only North or Central American country that continues to systematically deport the Salvadorans.

Our Government should allow Salvadorans to stay here until it is safe for them to return home. We have allowed Ethiopians, Iranians, and Afghanis to stay because we believed it was too dangerous for them to return. We currently let Poles remain in the United States. Surely, if the situation in Poland warrants this, so certainly does the situation in El Salvador. We at Amnesty International ask why U.S. policy benefits one nationality and not another.

Both the international movement of Amnesty International and the U.S. section of Amnesty International have, on several occasions, appealed to the present U.S. administration on behalf of Salvadorans. Each effort was to no avail. I ask that our most recent letter to the U.S. Government, supporting the temporary suspension of deportation of Salvadoran refugees, be included in the record of these proceedings.

Mr. MOAKLEY. Without objection.

Mr. HEALEY. Because our appeals have generated no positive response, we urge you, as members of this subcommittee, to take the lead and act courageously. In supporting this bill, you could provide temporary humanitarian relief by making the issue of deportation of Salvadoran refugees a high priority. The U.S. Government should not be in the business of endangering refugees from El Salvador any more than it should those from Poland, Iran, Ethiopia, or Afghanistan.

We urge you to speak out in favor of this legislation. Use your influence and your resources to save these refugees from the forceful return to a most dangerous situation.

Thank you, Mr. Chairman.

Mr. **Moakley**. Mr. Healey, because you have to run, could I ask you one question?

Mr. **Healey**. Surely.

Mr. **Moakley**. Do you know what happens when a person who returns to El Salvador presents himself to this board at the airport or wherever he lands and they check his credentials and find out he has not voted in the election? How do they treat him?

Mr. **Healey**. Amnesty International is not in a position to provide information in that regard. Such information is unavailable to our organization.

Mr. **Moakley**. Then you do not know?

Mr. **Healey**. No.

Mr. **Moakley**. Thank you very much.

Thank you very much for coming and testifying this morning and we understand your other commitments.

Mr. **Healey**. Thank you, sir.

[Excerpts from a report on extrajudicial executions in El Salvador, and the letter to the U.S. Government supporting the temporary suspension of deportation of Salvadoran refugees, referred to by Mr. Healey, follow:]

EXCERPTS FROM

EXTRAJUDICIAL EXECUTIONS IN EL SALVADOR

Report of an Amnesty International Mission to Examine Post-Mortem and Investigative Procedures in Political Killings

SUMMARY OF THE MISSIONS FINDINGS

Over 40,000 Salvadorians are estimated to have been killed in political violence in El Salvador since the 1979 coup which overthrew the government of General Carlos Humberto Romero. On the basis of its collection and analysis of information concerning thousands of individual cases, Amnesty International believes that a large proportion of those killed were the victims of extrajudicial executions by government military and security forces.

However, the exact number of deaths due to violence is unknown, and the precise percentage of these which should be categorized as extrajudicial execution is difficult to specify as the many thousands of violent deaths since 1979 have never been satisfactorily investigated by the Salvadorian authorities, nor have their perpetrators been brought to justice.

The Amnesty International delegation went to El Salvador in July 1983 specifically to study official post-mortem investigative procedures. It found that:

1. Inadequate certification of death procedures are partially responsible for the lack of knowledge as to numbers of deaths or those responsible. Salvadorian medical, police and legal institutions are not fulfilling the tasks required from them to carry out each stage of the process. As a result, the existing system for certifying deaths seems at the very least to facilitate the murder of individuals on a large scale, and it is impossible to establish and make known within El Salvador or abroad the number killed or those responsible.

2. Such shortcomings are partly due to lack of resources. However, the lack of resources devoted to this itself reflects a greater underlying problem: lack of political will on the part of the authorities to investigate the many thousands of unresolved violent deaths, many of them apparently politically motivated, which have occurred in recent years. Until the relevant authorities assume a greater and genuinely independent role in investigating the deaths of the country's citizens and prosecuting those responsible, it will not be known just how many Salvadorians have died violently, nor will it be possible to attribute responsibility for their deaths, bring the killers to justice, or to end such abuses.

3. The inadequacy of the criminal justice system is most clearly illustrated in those cases of violent death apparently involving government security forces. In a number of such cases, most concerning foreigners, some semblance of an inquiry nonetheless became a political necessity. Amnesty International considers that the lack of progress in bringing charges and obtaining convictions in such cases most tellingly illustrates the authorities' lack of political will to genuinely investigate military and security force excesses. The obvious manipulation and suppression of technical, including medical, evidence, and the intimidation and repression of witnesses, lawyers and the judiciary involved in such

cases has also been soundly documented in these few instances. A number of such cases are reviewed in the case histories section of this memorandum.

4. The unresolved deaths by violence are occurring in a context of a civil war which complicates their attribution in a number of material ways. Even so, it has been the blatant failure of the authorities to investigate such deaths and bring their perpetrators to justice which has been one of the major circumstantial factors suggesting that in fact it is the authorities themselves who lie behind the wholesale extrajudicial execution of people from all sectors of Salvadorian society.

5. Staff of independent human rights monitoring and reporting groups that have tried to collect data concerning human rights violations (including the extrajudicial executions the government appears unwilling to investigate), are themselves victims of such abuses as "disappearance" and killing, as are others who would normally play a role in the certification and investigation of violent death, including medical professionals, lawyers and members of the judiciary, and witnesses.

6. The governmental Human Rights Commission which began functioning in 1983 clearly intends to confine itself to considering a limited range of human rights violations. It does not, for example, intend to try to establish the circumstances surrounding the many thousands of "disappearances" and extrajudicial executions which occurred before it started functioning. Nor does it intend to publish information regarding human rights violations reported to it, or to assume any responsibility for establishing the identity of those responsible. Amnesty International welcomes the establishment of the Commission, and is gratified by the apparently sincere efforts of some of its members to investigate certain reported human rights violations, including apparent extrajudicial executions. Nevertheless, it considers the Commission as presently constituted to be an inadequate response by the Salvadorian authorities to the continuing wholesale violations of human rights in El Salvador.

The recommendations made at the end of this report (see pp. 45-48) include a number of steps which Amnesty International considers the Salvadorian authorities should take to remedy the deficiencies the delegation identified in certification of death and post-mortem investigative procedures. Other recommendations deal with changes which the organization believes must be made in Salvadorian legal and political procedures in order to end extrajudicial executions by the Salvadorian security and military forces, the civil defence squads associated with them, and the "death squads", and help restore respect for human rights in the country.

Amnesty International calls on the Government of El Salvador to implement these recommendations. It would welcome additional information about official certification of death and inquest procedures as well as any indication of steps being taken by the appropriate authorities to remedy the deficiencies in official medical and legal investigations of apparent extrajudicial executions.

EXTRAJUDICIAL EXECUTIONS AND THE SCALE OF THEIR INCIDENCE IN EL SALVADOR

Amnesty International defines extrajudicial executions as the unlawful and deliberate killing of individuals because of their actual or imputed political beliefs or activities, religion, other conscientiously held beliefs, ethnic origin, sex, colour or language, carried out by order of a government or with its complicity.(2)

The precise number of victims of extrajudicial executions and the total number of deaths due to political violence in El Salvador is impossible to determine for various reasons. The high level of killings in the country, partially due to the civil conflict, means that it is often difficult to study individual deaths in detail. The civil conflict also makes it difficult to distinguish in some instances between deaths in combat, or those which have occurred accidentally but were incidental to the combat, and others, where Salvadorian military and security forces, the civil defence personnel working at their command, or the irregular "death squad" units have carried out extrajudicial executions of non-combatant civilians or captured members of armed opposition forces. The high level of "disappearances" after arrest in the country, the widespread use of murder and mutilation to terrorize for political purposes, and the disposal of corpses in "body dumps"(3) are other factors which make it difficult to correctly tabulate and classify instances of death by violence. Such factors are discussed in more detail later.

The Salvadorian Government's failure to implement procedures either to record or to investigate instances of violent deaths is another major factor making it difficult to ascertain how many non-combatant Salvadorians have been the victims of politically-motivated killings in recent years, and who has been responsible for their deaths. The grave shortcomings which the Amnesty International delegation found in the present procedures are discussed later in this report.

Adequate investigations into such deaths and tabulation of data concerning their scale have also been obstructed by the arrests, torture, "disappearances", extrajudicial executions and threats of violence directed against medical and legal professionals who would normally be involved in the effort to establish cause of deaths due to violence; witnesses who could be expected to testify regarding such deaths; civilian officials responsible for conducting inquiries in instances where security or military force personnel appear to have been responsible for extrajudicial executions; and staff of independent human rights monitoring groups who attempt to collect data on such issues. These factors are also discussed in more detail later in this report.

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(2) Amnesty International considers the human rights which fall within its terms of reference to be those of the individual in relation to governmental authority, as defined in international instruments for the protection of human rights, agreed by governments. The organization also, as a matter of principle, condemns the torture or execution of prisoners by anyone, including opposition groups. It makes this position known through its publications and the news media. With respect to El Salvador, Amnesty International has received reports of the execution-style killings of individuals by the armed opposition, and, in line with its normal policy, has noted such reports in its public material on El Salvador. The organization believes that the recommendations for improved investigative procedures as regards violent deaths made in this report could play an important role in attributing responsibility for all such deaths and in bringing those responsible to justice.

(3) Well-known places where disfigured corpses are regularly openly abandoned.

Despite difficulties in investigating individual cases and compiling statistics to quantify extrajudicial executions in El Salvador, a number of sources, including the independent human rights monitoring and reporting groups in the country, have published regular estimates since 1979 of the number of non-combatant civilians who have been killed.

Amnesty International is unable to confirm the precise figures issued by these sources, and is aware that the reporting classifications used by the various groups are not necessarily defined to include only those killings which the organization would consider to be extrajudicial executions. In many cases, for example, it is often not possible to establish definitely the perpetrator of a particular killing, although circumstantial evidence in individual instances and the pattern of similar killings by government forces, indicate official responsibility. In other cases, published figures on violent deaths combine cases of extrajudicial execution with other killings of non-combatant civilians incidental to armed conflict between government and opposition forces, or to the pursuit of military objectives by government forces. Political murders by opposition groups have also been recorded in the data published regularly by some human rights monitoring and reporting groups.

However, notwithstanding the varying criteria of human rights groups for recording killings of non-combatants, Amnesty International considers that the published estimates compiled by them provide a useful indicator of the scale on which such killings, including extrajudicial executions, have occurred in recent years. Some of the estimates published are as follows:

> In July 1981 the Centre of Information and Documentation of the Central American University José Simeón Cañas in San Salvador estimated that some 6,000 civilians had been killed in the first half of the year.
>
> In January 1982 Monsignor Arturo Rivera y Damas, now Archbishop of San Salvador, estimated that 11,793 non-combatant civilians had been killed in El Salvador during 1981.
>
> In a speech to the American Chamber of Commerce on 29 October 1982 the then-US Ambassador to El Salvador, Deane Hinton, stated that since 1979 "perhaps as many as 30,000 Salvadorians have been killed illegally, that is, not in battle".
>
> Between January-June 1983, Socorro Jurídico Cristiano tabulated a total of 2,823 persons who had been the victims of what the organization termed "non-combat deaths". For the same period, Tutela Legal gave a figure of 2,527 civilians who had died and noted that 326 more

non-combatant civilians who had "disappeared" and not reappeared could also be assumed to have been likely victims of politically-motivated killings during that period. The CDHES (non-governmental) figure for killings of presumed civilians between 1 January and 15 June 1983 (which included unclarified deaths that had occurred during military operations and bombardments) gave a total of 2,019, with a further 168 people classified as having "disappeared".

On 16 October 1983 the Auxiliary Archbishop of San Salvador, Monsignor Gregorio Rosa Chávez, publicly deplored the fact that there had been 276 known violent deaths in El Salvador in the preceeding week.

In a Christmas homily, given on 5 December 1983, Monsignor Chávez stated that 6,096 people had been the victims of violence in 1983, and that the majority of the killings had been carried out by government security forces against civilians.

ESTABLISHING RESPONSIBILITY FOR EXTRAJUDICIAL EXECUTIONS IN EL SALVADOR

Since the 1979 coup, human rights organizations in El Salvador and abroad, including Amnesty International, and numerous foreign delegations of inquiry that have visited the country since then, have collected and assessed evidence on tens of thousands of killings of civilians there.

Careful study of the available information, including eye witness testimony collected by Amnesty International missions to the area during the period in question, has led Amnesty International to the conclusion that a large proportion of the reported killings of non-combatant civilians in El Salvador since 1979 were extrajudicial executions carried out by the regular military and security forces (acting both in uniform and in plain clothes in the guise of the so-called "death squads"), and by civil defence personnel acting under military command. Amnesty International believes that these extrajudicial executions have occurred on an enormous scale, and that only their precise number remains open to question.

The evidence gathered by Amnesty International which supports these conclusions includes first-hand testimony of people who have witnessed arrests without warrant and extrajudicial executions. The July 1983 Amnesty International delegation heard testimony of people who described having witnessed the seizure of individuals who were never acknowledged to be in custody and were later found dead. It also recorded statements by others who said they had witnessed the summary execution of captive non-combatant civilians by government forces. Other witnesses testified that they had seen people in custody at military and security force establishments shortly before they were found dead - apparently the victims of extrajudicial execution. In yet other cases, the seizure of individuals later found murdered could be attributed to government forces, although carried out by gunmen in civilian clothes, or attributed by authorities to so-called "death squads", on the basis of circumstantial evidence - units of the regular uniformed police or military forces were in the area when the seizures occurred; plainclothes agents making arrests were accompanied by or observed passively by uniformed personnel; assailants travelled in police or military vehicles; they moved about freely on city streets during curfew hours, unmolested at police roadblocks; corpses were found with their thumbs bound with cord - the standard method used by the security services to restrain prisoners; bodies, bearing marks of torture, had been "dumped" in well-known disposal sites in areas heavily patrolled by the police and military; people found dead had been abducted by men in plain clothes, together with others who were later acknowledged to be in official detention. [In a number of instances known to Amnesty International, such acknowledgements came only after the persons in question had been seen in custody by chance by representatives of the International Committee of the Red Cross (ICRC).]

In a few cases, Amnesty International has recorded the testimony of survivors of attempted extrajudicial executions. They told the organization how they had been arrested by men in civilian clothes and interrogated under torture at security force headquarters while in unacknowledged detention. They had then been taken blindfolded out of San Salvador with other detainees, lined up and shot in the head at close range. One such survivor examined by an Amnesty International doctor displayed sequelae consistent with having survived such an assassination attempt.

Amnesty International is aware of a number of cases of uniformed security or military agents abducting people from the hospitals to which they had been brought for treatment after being shot in the head and left for dead. Evidently their abduction was intended to prevent them from giving information about the circumstances in which they had been wounded. In some instances the bodies of those abducted were later recovered; others remain "disappeared".

There was also evidence in some cases that those who had arrested people who were later found dead had acted on information which only the government could have had. In yet other cases, the killing or "disappearance" of certain individuals followed publication of the victims' names as "traitors to the country" in the official news media or in leaflets issued by the Comité de Prensa de las Fuerzas Armadas (COPREFA), Armed Forces Press Committee.

Statements by defectors and highly-placed politicians as well as military and security officials have also provided direct evidence for the conclusion that all branches of the Salvadorian security and military apparatus have been responsible for the large-scale extrajudicial execution of non-combatant civilians.

A former Salvadorian army doctor testified to the US Congress in April 1981 that he had treated Salvadorian security agents for injuries sustained in the course of attacking civilians whom they had been ordered to eliminate. These agents, he stated, were brought for treatment in the civilian clothes they had been wearing at the time when the execution-style killings were carried out.

More recently Major Roberto D'Aubuisson, a former top army intelligence officer (and until December 1983 President of the Constituent Assembly), stated publicly that soldiers carried out "death squad" killings on orders from their superiors, and that these killings were not the work of fringe elements beyond the control of regular military and security forces. Major D'Aubuisson's most recent such statements were made to representatives of a Special Commission sent to El Salvador in October 1983 by US President Ronald Reagan to investigate the current situation there and make recommendations about future US policy in the area. Shortly after Major D'Aubuisson's declarations, journalists quoted highly-placed Salvadorian sources and US Embassy officials who confirmed that top Salvadorian security officials and National Police and army officers directed "death squad" killings. According to the reported statements of these officials, names and personal details and sometimes photographs of Salvadorians selected for kidnapping and murder are passed on to non-commissioned army officers who assemble "death squad" teams from active and reserve members of the security forces and the army.

In August and September 1983 a defector from the Treasury Police told his Amnesty International interviewers in the United States about the secret killing missions undertaken by specially-trained police units. He stated that those assigned to kill specific individuals dressed in civilian clothes to carry out their missions. Often, he said, they dressed in a particular way in order to be able to approach their targets. Those assigned to carry out killings in the university, for example, would dress like students, carry notebooks and wear eyeglasses. Special books were used by these agents to hide the guns that they carried when on such assignments. Sometimes such agents wore bandanas, or carried literature intended to suggest that they were actually members of the opposition.

However, despite all of the accumulated evidence which indicates government responsibility for large-scale extrajudicial execution of non-combatant civilians, the Salvadorian Government has consistently maintained that the responsibility for civilian deaths and "disappearances" lies largely with "extremists", including members of far right groups operating outside government control which the government claimed it is unable to identify or apprehend. The left-wing opposition was also cited by the government as responsible for large numbers of non-combatant deaths and "disappearances".

Given the controversy as to who really is responsible for extrajudicial executions in El Salvador, the July 1983 Amnesty International mission wished to study at first hand the criminal, forensic and legal procedures followed by the Salvadorian Government in cases of killings of non-combatants - particularly in those cases where the initial evidence suggested the direct responsibility of government forces for extrajudicial executions. A premise of the inquiry and of this report was that the government's failure to implement thorough, consistent and verifiable procedures when investigating political murders in which the government security services were implicated added substantiation to other evidence of probable official involvement. Government obstruction in instances where independent inquiries were initiated into suspected extrajudicial execution offers further support to such a conclusion. Conversely, the government's allegation that political killings of non-combatants are perpetrated by non-government forces clearly cannot be substantiated inasmuch as procedures employed to investigate such killings are clearly unsatisfactory and as no investigation or even systematic registration of these killings takes place at all in most instances.

The Amnesty International delegation concluded that the Salvadorian Government's method of investigating cases of reported political murders were totally inadequate and reflected a lack of political will on the part of the military authorities to permit any investigation by the judiciary into the many thousands of political killings in recent years.

Authorities have also obstructed and concealed the results of any independent investigations into the extent of responsibility of the regular military and security forces for extrajudicial executions. The delegation found the evidence compelling that the government has systematically evaded accountability for large-scale extrajudicial executions by government forces.

This memorandum reports on the delegation's findings about official investigation procedures and obstacles to serious independent investigation of these killings and includes case studies which illustrate these difficulties. The final section sets out the organization's recommendations, including a series of measures that would improve government procedures for certification and investigation of killings.

RECOMMENDATIONS

Amnesty International considers it essential that all Salvadorian citizens be guaranteed those human rights generally recognized by national legislation and regional and international agreements. Among the most basic of such rights is the right to life, as protected under Article 6 of the International Covenant on Civil and Political Rights, Article 4 of the American Convention on Human Rights and by all other fundamental human rights instruments. With respect to persons who have been deprived of this right, Amnesty International considers it an essential function of the constituted authorities to ensure that adequate facilities are available and proper procedures established and implemented whereby victims' families can attempt to publicly establish the cause of death and those responsible.

The Amnesty International delegation looked most closely at Salvadorian certification of death procedures; it found the Salvadorian process of recording and investigating violent deaths to be defective at all levels. A number of recommendations made here therefore suggest steps which Amnesty International considers should be taken by the competent Salvadorian authorities to ensure that forensic evidence concerning violent deaths is systematically collected so that it could play its vital evidentiary role in subsequent investigations to determine likely perpetrators and bring them to justice.

Other recommendations concern changes which Amnesty International believes must be made in Salvadorian legal and political procedures to end extrajudicial executions by the security and military forces, the civil defence squads associated with them, and the "death squads", and promote a return to respect for human rights in the country.

Amnesty International recognizes that the present civil conflict in El Salvador makes some of these recommendations difficult to implement. Nonetheless, it considers that efforts to implement the measures suggested to the extent possible would demonstrate to concerned international opinion that the constituted authorities were genuinely acting in good faith to improve the human rights situation in the country.

A. Government Responsibilities with Respect to Military, Security and Paramilitary Units

1. The government must ensure that all members of the regular military and security forces abide by such internationally agreed standards as those set by the United Nations Code of Conduct for Law Enforcement Officials of December 1979 and by Article 3 of the four Geneva Conventions on the Protection of Victims of War of August 1949, regulating the conduct of armed forces in situations of conflict not of an international character.

2. Military and security personnel implicated in human rights violations, including the extrajudicial execution of non-combatant civilians, must be brought to justice. The appointment of a central military prosecutor responsible for investigating and prosecuting all crimes commited by the security forces should be considered.

3. The activities of the "death squads" should be fully investigated. Anyone found to belong to such squads should be brought to justice, and the government should clearly publicly state that it will tolerate no further operations by such squads.

4. Given the alleged involvement of local civil defence forces in extrajudicial executions, the activities of these units too should be investigated, and consideration given to disbanding these groups.

B. Judicial Reform

The possibility of designating a military prosecutor has already been suggested in Section A. In addition, the government should institute major judicial reforms that could help restore respect for the rule of law. The Association of the Bar of the City of New York made a number of useful suggestions in its report which it presented to the Salvadorian Government in January 1983. Amnesty International considers they merit careful study. They include:

1. A restructuring of the Salvadorian Ministry of Justice to give it greater control over the security forces;

2. The establishment of a criminal law training institute to increase judicial expertise;

3. The promotion of the establishment of an independent national Bar Association, charged with ensuring that the integrity of the judicial system is respected.

C. Maintenance of Adequate Standards in the Collection of Data and the Forensic Examination of Bodies in Cases of Death due to Violence

1. The government should thoroughly review the present method of reporting and certifying violent deaths, including those resulting from actions taken by any person in an official capacity. The aim of such an inquiry should be to create procedures which will guarantee that such deaths are reported to the appropriate authorities, as for example, the Justices of the Peace, whose task it would then be to conduct genuine investigations into the deaths.

2. Clear directives should be issued to all appropriate security agencies and civilian officials that burying unidentified bodies without first examining them and/or informing the central authorities will no longer be tolerated.

3. The government should assume responsibility for patrolling the areas commonly known to be "body dumps", not only to recover and attempt to identify the bodies found there, but also to discourage the abandonment of unidentified bodies, and in order to apprehend and investigate anyone found disposing of bodies in this way.

4. A central agency should be established to collect and tabulate data on violent deaths on a national level. Its records should be available to agencies and individuals attempting to locate missing people or establish cause of death in cases of identified corpses.

5. The authorities should take all possible steps to identify recovered corpses, such as finger-printing them and checking these finger-prints against other records. The authorities should also notify relatives when corpses have been identified.

6. All unidentified corpses should be properly prepared and examined by adequately trained forensic specialists. Professional standard post-mortem photographs should be taken so that they may serve as evidence in eventual legal proceedings. If cause of death is established, this should be stated in writing and the findings made available to the public.

7. In cases of identified bodies, these same forensic procedures should be followed providing the victim's family agree.

8. Provision should be made for the adequate training of Salvadorian medical and forensic medical experts. Reopening the National University and its Medical School should be considered and steps taken to ensure that staff and students there and at other Salvadorian medical educational institutions are protected from any "disappearances" and extrajudicial executions such as those suffered by such people in the past. The number of forensic pathologists should be increased by expanding teaching facilities in the country and increasing the numbers of Salvadorians trained abroad. The appropriate national and international funding agencies might consider ways of helping develop such programs.

9. Steps should also be taken to ensure that medical and legal practitioners involved in the process of certification of death are safe from interference, intimidation or abuses, including extrajudicial executions, intended to interfere with the performance of their professional duties.

10. Communication and interchanges between national and international medical and forensic pathology associations and their Salvadorian counterparts should be encouraged in order that any threats or abuses directed against Salvadorians working in this field can be quickly known and exposed, and their ability to carry out their professional duties without interference thus strengthened.

D. Independent Human Rights Monitoring and Reporting Groups

1. The government should ensure that members of such groups receive the full protection of the law, including respect for the right to life, so that they can carry out their vital work.

2. The data collected by these groups, including testimonies regarding official security and military force involvement in human rights violations, should be fully investigated by the authorities.

3. All instances of human rights violations directed against staff of such organizations, a number of which have been described in this memorandum, must be fully investigated and the perpetrators brought to justice.

E. The Government Human Rights Commission

1. Amnesty International urges that the government instruct the governmental Human Rights Commission to expand the scope of its investigations to include inquiry into the many thousands of human rights violations, including massive instances of disappearance and extrajudicial execution which occurred before the Commission began functioning at the beginning of 1983.

2. The Commission should also take steps to widen its methods of data collection, so that it no longer depends solely on the Salvadorian press for information or upon requests from relatives to investigate "disappearances". It should, for example, be given the power to subpoena the records of the military and security forces, as well as the medical and legal records maintained by local Justices of the Peace or other local or central civilian authorities with respect to instances of violent death. It should also attempt to investigate human rights abuses reported by local human rights groups.

3. The Commission should attempt to identify those responsible for the human rights violations brought to its attention. It should present all the relevant information which it collects in this regard to the relevant authorities, and press them to prosecute where appropriate.

AMNESTY INTERNATIONAL U.S.A. 705 G Street, S.E. Washington, D.C. 20003 202/544-0200

NATIONAL SECTION OFFICE
304 WEST 58TH STREET
NEW YORK NEW YORK 10019

USA

May 18, 1984

The Honorable Elliott Abrams
Assistant Secretary of State for
  Human Rights and Humanitarian Affairs
Department of State
Washington, D.C. 20520

Dear Secretary Abrams:

I am writing to urge that the deportation of Salvadorans in the United States be stopped either through the granting of "extended voluntary departure" status or through the temporary suspension of deportation.

Enclosed please find an Amnesty International Publication on El Salvador embargoed for May 21, 1984. The report, which presents the findings of an Amnesty International mission of inquiry to El Salvador in July 1983, includes detailed case studies on extrajudicial executions and examinations of post-mortem and investigative procedures in political killings. The mission delagates examined closely the methodology employed by domestic human rights monitoring organizations as well as that of the United States Embassy in San Salvador. The report includes a series of recommendations which have been presented to the government of El Salvador.

The findings of the mission substantiate two critical conclusions about the situation in El Salvador: that the government is itself behind large numbers of political killings, and that Salvadorans from all walks of life are threatened by unredressed deliberate attacks in a context of pervasive violence throughout the country. Among the implications of these conclusions, Amnesty International draws your attention to the danger that such a situation poses to Salvadorans deported to their home country.

Amnesty International regards the deportation of Salvadorans, now numbering in the thousands each year, as an unconscionable endangerment of their basic human rights to life and security of the person, as protected in the Universal Declaration of Human Rights. Refusal to grant "extended voluntary departure" or to support legislation suspending deportations makes the United States government responsible for exposing these persons to abuses of human rights, including torture and government murder, which evidence

Amnesty International is a worldwide human rights movement which works impartially for the release of prisoners of conscience, men and women detained anywhere for their beliefs, color, ethnic origin, sex, religion or language, provided they have neither used nor advocated violence. Amnesty International opposes torture and the death penalty in all cases without reservation and advocates fair and prompt trials for all political prisoners. Amnesty International is independent of all governments, political factions, ideologies, economic interests and religious creeds. It has consultative status with the United Nations (ECOSOC), UNESCO and the Council of Europe, has cooperative relations with the Organization of African Unity (Bureau for the Placement and Education of African Refugees). Amnesty International was the recipient of the 1977 Nobel Prize for Peace

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brought to Amnesty International's attention shows some have already been subjected to on their return. Although documentation of specific instances of human rights violations against those returned is difficult to obtain, it can only be assumed that many more will face grave danger if the deportations continue.

Amnesty International has received persistent reports of considerable pressure being brought to bear on Salvadorans to depart voluntarily from the United States. Further, reports of procedural irregularities in the handling of asylum petitions of Salvadoran nationals in the United States raise concerns as to the fair application of national and international laws regarding the non-refoulement of refugees.

We note that in the past "extended voluntary departure" status has been granted to nationals from a number of other countries, including Ethiopia, Nicaragua, Poland, Uganda and Lebanon. In light of this and the findings of the enclosed report, Amnesty International USA urges that similar protection be exercised by the Untied States government in the case of Salvadoran nationals.

Sincerely,

John G. Healey
Executive Director

Mr. MOAKLEY. The committee will now hear from Mr. Pandya, American Civil Liberties Union.

STATEMENT OF AMIT PANDYA, AMERICAN CIVIL LIBERTIES UNION

Mr. PANDYA. Mr. Chairman and members of the subcommittee, I am Amit Pandya and I appear on behalf of the American Civil Liberties Union.

We thank you for the opportunity to offer testimony and emphatic support for H.R. 4447.

I would ask that both this oral statement and the written statement to be submitted will be made a part of the record.

Mr. MOAKLEY. Without objection, your entire statement will appear in the record.

Mr. PANDYA. Our concerns in this field are threefold and they relate to both to self-interest and to fundamental commitment to the life and liberty of individuals.

We are concerned at discrimination in the administration of our laws. We believe that continued discrimination in the administration of our laws will breed contempt for the rule of law in general.

This is obviously something we are very concerned with.

We also believe that the continued existence of an undocumented or underground population, which is fearful of deportation above all else, will also pose an obstacle to the rule of law since such a population will generally be unwilling or unable to avail itself of legal protection to which all persons are entitled.

Most importantly, we are concerned about the fact that we are sending significant numbers of people back to El Salvador to face high risk and dangers to their life and liberty.

We believe that the public record unequivocally supports the measure that is before you.

Who are the El Salvadorians who have in such large numbers fled their country in the past 5 years? And I would emphasize the majority of the estimated population in the United States has indeed fled since the civil war began.

The administration's testimony suggested that a large number, perhaps even the greater proportion had arrived before the civil war began. However, the 1980 U.S. census indicates that 94,000 Salvadorians were in the United States in 1980 when the census was taken. The census has safeguards to reassure undocumented immigrants who might otherwise not report to the census and provide information.

Consequently, I think we can assume that the 94,000 figure is accurate. And that would suggest that four-fifths of the population of the Salvadorians in the United States has come here in the last 5 years.

Why would that be? Well, obviously it is because of the massive and widespread violence that you have heard from the other witnesses about.

The civil war in El Salvador is clearly appalling and I will not rehearse the numbers of civilians killed but would only point out that 25 percent of the total population of El Salvador has been displaced from their homes into other parts of El Salvador or to foreign countries. That would translate into an equivalent of 55 million people in the United States, I believe, who could be considered displaced. I think that that is fairly substantial.

It is important to emphasize that what we are talking about here under those circumstances are civilian victims of military violence. We are talking about war refugees and it is for this reason that most of the administration's comments on the Refugee Act and whether these refugees are covered by the Refugee Act, or ought to avail themselves of its protection, are basically irrelevant.

Clearly, a policy of continuing to deport Salvadorians to El Salvador has had little effect on the flow of Salvadorians to the United States so far.

So it would seem reasonable to conclude that a failure to enforce immigration policy is unlikely to make a significant difference.

In any case, we believe that the primary factor which explains the continued migration of Salvadorians in the last 5 years is the "push" factor of violence, not any inducements that U.S. policy may offer.

I will not go into what extended voluntary departure is. I would only emphasize the following in rebuttal of the administration's implication. The administration implies that people have come to the United States to live here and to improve their situation. This is clearly not the case. People have come here to shelter temporarily because they are escaping an intolerable situation.

Extended voluntary departure or this kind of relief from deportation, whatever you want to call it, is clearly distinct from the purposes of the Refugee Act. It is temporary, there are different standards which relate, as you pointed out, to generalized violence in the country of a person's origin, and it confers absolutely no eligibility for any Government benefits or permanent residence.

That this kind of policy should have developed in the United States in the last 15 to 20 years is understandable given that there are many legal and humanitarian norms which ought to apply to civilian victims of war, and which we ourselves as a nation have in the past applied to civilian victims of war such as the Lebanese, the Nicaraguans, or the Cambodians, as you pointed out.

We are not asking here—this bill is not asking for an exception, as the administration alleges, to regular immigration and refugee procedures. This is a completely distinct tradition that we are talking about here. We have a tradition regarding these situations.

In the exercise of our humanitarian impulses and in the discharge of our international legal obligations, we decline to deport people who might very well under the immigration and refugee laws be deportable.

Clearly there is the high value that we as a nation and a society place on life itself, but beyond that there are pragmatic concerns about immigration enforcement: whether resources for immigration enforcement which are scarce ought to be used in a plainly inhumane program of deportation of Salvadorians; whether we would not be better off encouraging Salvadorians to come forward and make themselves known to the authorities, as clearly this kind of temporary relief from deportation would do.

The legal sources for this kind of policy are quite varied. The Geneva Convention of 1949 and the protocols additional 1 and 2 provide for the treatment of civilian victims of war-like situations, internal wars and international wars.

Amongst the provisions of the convention and protocols are some which provide that it is, and I quote: "A serious war crime, for a nation to deport a civilian fleeing a war situation back to that war situation."

The U.N. High Commission's handbook on "Procedures and Criteria for Determining Refugee Status," which is regarded as the authoritative interpretation of the U.N. Convention and protocol relating to the status of refugees, also provides in paragraphs 26 and 27 for consideration of the needs of people who may not qualify under a narrow definition of a refugee but are nevertheless refugees under a broader definition.

Clearly, the Refugee Act can only go so far. It has different standards, it requires that a showing be made of persecution. Many of these people may very well not be afraid of persecution. They are, as we said, afraid of massive and widespread and random violence.

Our own practice, since 1980, when the Refugee Act was passed, suggests that this administration believes that there is indeed this distinct procedure, that it has the authority to implement this distinct procedure and that this distinct procedure does not in fact violate congressional intent as embodied in enactment of the 1980 Refugee Act.

There are many problems in any case with the administration of the Refugee Act of 1980.

Even if it were an equal instrument to the task of dealing with these people, it clearly has not been used as such. Refugee admissions numbers under the Refugee Act are miniscule. I believe that the figure is that in this fiscal year, so far, 93 Salvadorians have been admitted to the United States as refugees under that program. That is clearly an insignificant figure.

There are problems with the asylum adjudication system. I believe that the figures on the percentage of successful asylum applicants who are Salvadorians suggests that there is some irregularity in the asylum adjudications procedures.

I would—incidentally, take issue with the Assistant Secretary of State's assertion that Nicaragua and Salvadorian approval rates are running neck and neck at 10 percent. From the figures that INS has released that they are more like—at least for this fiscal year so far the figures are 3.2 percent for Salvadorians and something in excess of 20 percent for Nicaraguans. I really do not know where Mr. Abrams figures come from at all. And I am basing my calculations on figures that I got from the Immigration Service.

Well, we have, as you pointed out, the language of the sense of the Congress, the language of the Department of State authorization.

We have many other expressions of the sentiment of Congress. Indeed, if the Mazzoli bill which is on the floor right now passes, it will also include sense of the Congress' language that Salvadorans be granted extended voluntary departure.

There are other resolutions which have been passed in past Congresses.

Nevertheless, the administration cries that it would violate the intent of Congress to pass nationality specific legislation. And I really do not understand that.

It seems to me that Congress has indicated that it is disposed to pass such nationality specific legislation.

The administration conceives of the issue as being covered by two formulations: People are either economic migrants or they are refugees covered under the Refugee Act. But as we have said, these are victims of war who are not necessarily covered under the Refugee Act.

The fact that poverty in that country adds to their misery as war refugees is quite irrelevant for our purposes here. The fact of the matter is that people are in danger if they are sent back, and that is something that—that is the only thing that we should focus on.

I know I am taking a lot of time but I wanted to address just some of the issues that the Administration raised on the question of what happens to people who are sent back.

Mr. MOAKLEY. The committee is very interested in that aspect of your testimony.

Mr. PANDYA. I would just summarize some observations that I have made here.

First of all, I would point out that the whole question of whether there is specific evidence of identifiable individuals who have been proven to be persecuted is quite irrelevant to this whole discussion.

What is relevant is whether or not, as a general matter, following commonsense, we could conclude that this population would, as a general matter, be subject to the danger if returned.

Never in the past, when the administration has granted extended voluntary departure, has it ever asked for the specific kind of proof it demands here, nor has it ever sought it, or had it.

Clearly, extended voluntary departure and this legislation relate to general conditions in El Salvador, and that can be the only concern. Nevertheless, we have identified some instances of—of specific individuals who have indeed suffered some kind of harm upon their return, and I would point out that this is despite the fact that such information is extremely difficult to gather.

Tutela Legal, whom the Assistant Secretary of State cited, has informed us that it considers it quite infeasible to do any kind of followup study, to actually talk to people about whether their relatives had suffered upon their return from the United States.

It also appears that the administration is talking about a very, very narrow issue. They have been talking all morning about whether there is evidence that people have been returned and persecuted because they are deportees from the United States. Well, that is really neither here nor there.

As I pointed out, persecution is a standard which is relative to the Refugee Act. It is not relevant to the tradition that this bill stands in.

Second, whether someone is harmed upon his or her return because he is deported from the United States, or whether he or she is harmed because he or she just happens to be a Salvadoran that we put back in the middle of the firefight, is again neither here nor there. The fact of the matter is that we will bear some responsibility if we return people knowing that there is the likelihood that they will suffer harm.

I would point out that—this is more extensively dealt with in our written statement, but I would point out that if you were to compare the methodologies used by the administration and by the American Civil Liberties Union in arriving at a conclusion of whether people have been harmed upon their return, you would have to conclude that our methodology is far tighter and far more reliable.

The administration has followed up on a list of 500 random individuals, fewer than 500, 497, I believe. On the basis of a very desultory investigation, they have concluded that there is no evidence.

Now, obviously, if you conclude that there is no evidence, when you did not try very hard to find any, that is neither here nor there.

Mr. Abrams referred to the fact that we of the ACLU had compared a list of 20,500 human rights violations with a list of 8,500 deportees, and only found, he says, 126. Well, I believe that one of the panelists in the previous panel addressed this issue when he talked about whether, even if you knew that 4 out of 1,000 in this building were going to be killed, whether that would allow you to consciously return the entire 1,000.

But in any case, the information that we were working with was severely flawed. The information, for instance, the Immigration Service gave us about deportees, was much of it handwritten and illegible. Most of it was quite useless for purposes of the match. So that, in fact, the 126 that Mr. Abrams referred to are culled from a much smaller list, and therefore fairly significant.

In any case, the administration is playing a numbers game about this. The fact of the matter is, regardless of how many people have been specifically identified, we return to the basic theme, which is that there is no safety for people who are returned.

The administration will argue that there are safe areas of El Salvador, where people may go and shelter. This is clearly clutching at straws. El Salvador is a country the size of Massachusetts or

Maryland. Newspaper articles recently suggest that the war which until now has been confined to the eastern two-thirds of the country is now in fact spreading to the west. Clearly the notion that people could somehow find a safe area of El Salvador to go and shelter is false on its face, and it is also negated by a lot of very good investigation and research that has been done on the conditions of displaced people in El Salvador, including an excellent study by the Americas Watch Committee and the Lawyers' Committee for International Human Rights.

Perhaps I should end there, and merely say that the American Civil Liberties Union believes that H.R. 4447 is a very modest device for accomplishing something that is long overdue, and we emphatically support favorable action on it.

[Prepared statement, with other material, submitted by the American Civil Liberties Union, follows:]

Statement of the American Civil Liberties Union
in support of HR 4447.
Before the House Subcommittee on Rules of the House.

Mr. Chairman,

HR 4447 is a modest device for accomplishing a limited but essential humanitarian purpose. The American Civil Liberties Union urges that the bill be promptly reported with a favorable recommendation.

The American Civil Liberties Union is a nonpartisan organization of over 250,000 members dedicated to defending the Bill or Rights. Its concern with the undocumented Salvadoran population in the United States is threefold. An "underground" population of persons, which is above all else afraid of apprehension and deportation and is consequently docile and exploitable, poses significant obstacles to the rule of law and the rights and liberties which that guarantees. A victim population in our midst does not augur well for the liberties of denizens who transact with or share communities with the undocumented aliens. The ACLU is also concerned about the discriminatory application of legal standards on the basis of extraneous considerations. This, we fear, breeds contempt for the rule of law and violates the humanitarian traditions of our nation. Finally, we remain concerned about the consequences for the right to life of persons who might be deported to El Salvador.

El Salvador is, by all accounts, wracked by a civil war characterized by a startling degree of danger and brutality. The principal victims of this civil war are innocent civilians. Estimates of the numbers of civilians killed in this war range from 30,000 to 40,000. The significance of this figure can only be appreciated if one recalls that the total population of El Salvador numbers fewer than 5 million, and that the geographical size of El Salvador is roughly equivalent to that of the state of Maryland.

One and a quarter million Salvadorans, a quarter of that country's population, have been compelled to flee their homes. 300,000 to 500,000 are in the United States. The vast majority of these have entered without inspection. The figures on the disposition of the asylum applications of Salvadorans suggest that, whether for reasons of discrimination or sheer ineligibility for asylum, most will not qualify for relief from deportation on a case by case basis. Nevertheless, the extreme dangers and hardships faced by these people if they are returned to El Salvador, induce in them an intense fear of deportation. They therefore manifest the same characteristics of docility, exploitability and unwillingness to cooperate with legal authority as the undocumented population in general, but to a greater degree, as would be expected given the particularly extreme nature of the hardship faced by them upon their return.

Without an increase in the enforcement activities of the I.N.S. against Salvadoran nationals in particular, the vast majority of this population will remain in the United States. The return to El Salvador of those who are accidentally caught up in I.N.S. enforcement has not had and will not have a significant effect on the size of this population. However, the _in terrorem_ effect of such selective deportation has extended and will extend to the entire deportable population. This will produce precisely the "underclass" which U.S. immigration policy seeks to avoid.

Furthermore, although a policy of continuing deportations has had a negligible effect on the extent and composition of the undocumented Salvadoran population, it does of course constitute an extreme danger to the lives of those few who are caught up in I.N.S. enforcement and subsequently deported.

It is for this reason that the American Civil Liberties Union believes that a temporary moratorium on the deportation of Salvadorans to El Salvador will in fact significantly advance some of the fundamental purposes of U.S. immigration policy. Such a moratorium would also maintain the reputation of the United States for flexible humanitarian policies.

It has been a customary practise of successive U.S. administrations, under similar circumstances involving other nationalities, to temporarily cease enforcing the departure of otherwise deportable aliens. Such protection is presently enjoyed by nationals of Lebanon, Afghanistan, Ethiopia and Poland. "Extended voluntary departure", as it is known, is a temporary humanitarian device which confers no permanent benefits. It does not vitiate the deportability of particular aliens. It has, in the past, been terminated when conditions in the country at issue permit a safe return.

It is not difficult to surmise the rationale for such a humanitarian practise. The United States clearly has the sovereign power to determine what aliens may remain in the United States. This power carries with it the corollary power to remove persons who do not qualify to remain. However, we are also, as a society, deeply attached to the value of the individual human life. We therefore temporarily decline to deport even concededly deportable persons to circumstances where their deportation is highly likely to result in death or severe injury.

This is consistent with the limited resources available for enforcement of the immigration laws and with the reality that these resources, unequal as they are to the total task, must be targeted so as to reflect proper national priorities. The Immigration and Naturalization Service has enough work on its hands without the additional burden of apprehending and returning aliens to such mortal danger.

Furthermore, if the Salvadorans who have fled El Salvador are considered refugees from armed conflict, the United States is positively prohibited by humanitarian norms of international law, including the Geneva Conventions of 1949 and the Protocols Additional I & II, from returning them to El Salvador. Both the Organization of American States and the United Nations have concluded that humanitarian norms apply to El Salvador. Persons who have fled that country are entitled to protection both as civilians and as refugees. These rights to protection are not waivable. Thus, even if the U.S. government were to obtain a voluntary departure agreement before returning a Salvadoran, it is arguable that it would still be in violation of its obligations under the Geneva Conventions. There can be not the slightest doubt that an involuntary repatriation would indeed be a violation of these humanitarian legal obligations. Geneva Convention IV provides that it shall be a serious war crime for a refugee (defined as a person who does not enjoy the protection of any government) to be forcibly repatriated before the cessation of hostilities to a State that has not demonstrated a willingness or ability to comply with humanitarian norms.

Indeed, it has been persuasively argued in an article entitled Geneva Convention Protections of Salvadoran Refugees, by Karen Parker of the Human Rights Advocates, that absent a protector state or an international protector such as the International Committee of the Red Cross, U.S. civilians have the right, and perhaps even a duty, under the principle of" civilian initiative" found in the Geneva Conventions, to assist these refugees in avoiding repatriation. If, as is increasingly the case, U.S. citizens exercise this option, a prolonged policy of deportations will threaten to create a conflict between the exercise of international obligations as embodied in the religious movement of "sanctuary" and the domestic policies of the U.S. as embodied in continued enforcement efforts against Salvadorans and continued prosecutions of religious refugee assistance workers.

It must be emphasized at the outset that both the fundamental purposes and the operation of a policy of temporary relief from deportation are quite distinct from the purposes and operation of the Refugee Act of 1980. That Act has as its fundamental purpose the determination of who will qualify to reside in the United States on account of a fear of persecution in their countries. Temporary relief from deportation, by contrast, assumes the absence of such eligibility and entails no assumptions about the political, religious, racial, ethnic or social bases of a fear of returning.

Curiously, the administration has seen fit to deny the viability of this approach in the context of a policy towards putatively deportable Salvadorans. The United States is now the only country in North or Central America which has a policy of systematically deporting Salvadorans. This policy has been articulated and vigorously adhered to in the face of an impressive degree of consensus that Salvadorans in the United States merit temporary protection from deportation.

In Public Law 98-164, the current State Department Authorization legislation [Section 1012 (a)], the Congress finds that "ongoing fighting between the military forces of the Government of El Salvador and opposition forces is creating potentially life threatening situations for innocent nationals of El Salvador", and that "currently the United States government is detaining these nationals of El Salvador for the purpose of deporting or otherwise returning them to El Salvador, thereby irreparably harming the foreign policy image of the United States." Earlier expressions of Congressional concern include the passage by the House in late 1981 of HJ Res 126, expressing the sense of the House that the Secretary of State should recommend that Salvadorans be accorded the protection of extended voluntary departure.

The unequivocal language of the State Department Authorization is the capstone of a sustained series of public and Congressional expressions of support for extended voluntary departure.

HR 4447 is necessitated by the continuing refusal of the administration to acknowledge that compelling humanitarian factors militate in favor of such action. Congress must act in order to uphold our fundamental national commitment to the sanctity of human life.

It is axiomatic that the power of Congress over immigration matters is plenary. There can therefore be no doubt that Congress has the power to act in this matter. Indeed, the administration's exercise of its discretion to grant extended voluntary departure to certain nationalities in the United States has clearly been the exercise of powers delegated by Congress in the Immigration and Nationality Act. In approving HR 4447 Congress would indicate its disapproval of the discriminatory exercise of those delegated powers.

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We append to this statement a carefully documented report which we request be made a part of the record. This report, entitled Salvadorans in the United States, The Case for Extended Voluntary Departure, presents a copious body of information which suggests that conditions in El Salvador are such as to render the return of Salvadorans to that country unconscionable. The report also addresses in detail the arguments advanced by the administration in declining to grant Salvadorans this protection. We believe that this presents a compelling case in favor of a temporary moratorium on the deportation of Salvadorans to El Salvador such as is provided by HR 4447.

There can be no doubt that conditions in El Salvador pose a high degree of danger to civilians. We believe that this conclusion is inevitable regardless of how one ascribes responsibility for the violence in El Salvador. Whether the "death squads" are or are not the only problem, whether they are or are not controlled by the government, whether or not the government has the capacity or willingness to control them, and whether the violence is predominantly perpetrated by leftists, rightists or the government, it is indisputable that civilians are in serious danger in El Salvador regardless of their political sympathies.

Nor will the recent election of a Christian Democratic President effect significant reduction of the violence in the short run. The political and military violence which have plagued El Salvador have their source primarily in the inability of civilian political authorities to control the armed forces, and in their inability to bring military hostilities to a manageable level. Recent press reports from El Salvador suggest that the new government will, despite the best of intentions, be hampered by a continuing inability of this kind. President Duarte's ability to curtail non-official violence will depend on his willingness to reassure the military that they will not be significantly reorganized or reformed in response to human rights considerations. This cautiousness is reflected in the fact that many commands, all but the worst, have been left intact despite serious questions about the human rights records of those commanders. It is also reflected in the sharp turn of direction since the new President's inauguration, away from the attempt to negotiate a political settlement of the war. This last factor suggests irrefutably that the dangers to civilians from civil combat will continue at approximately their present level.

We emphasize that the relief accorded by this legislation is temporary in nature. The bill provides expressly for studies to establish whether such relief is indeed necessary. It also provides for Congressional reconsideration of such relief in light of the information which is produced by such studies. This is an extremely modest approach. Without implying a permanent judgement, it calls in substance for immediate action to curtail an injury which is highly likely to occur.

Information is available on the conditions of displaced persons in El Salvador and on the conditions of Salvadorans in other countries. A copious amount of such information is documented in the report appended hereto. However, the nature and significance of such information is subject to serious disagreement between the administration and those, including Congress, the American Civil Liberties Union, the National Council of Churches, the U.S. Catholic Conference and many others, who have considered it appropriate that Salvadorans be temporarily protected from deportation. The studies of these questions called for by HR 4447 will encourage the administration to synthesize and systematically provide presently available information to Congress. They will also encourage the investigation of relevant factual matters which are unknown or unclear. This will ensure that both Congressional and administrative decisions are informed by a consistent body of information.

HR 4447 also calls for a study of the fates of persons returned to El Salvador. We do not believe that it is germane to the decision at hand whether, under the extremely difficult conditions for investigation in El Salvador, specific instances can be identified of the death or disappearance of persons returned to El Salvador. Certainly, this degree of proof has never formed the basis of past decisions to temporarily suspend the deportation of members of other nationalities. When conditions in a particular country are such as to severely endanger all civilians, it is reasonable to conclude that persons returned to that country will be equally endangered. This is a sufficient basis for temporarily suspending the deportation of persons to that country.

Statements accompanying the grant of extended voluntary departure to other nationalities in the past indicate quite clearly that the relevant consideration in these kinds of situations has been the fear arising from general conditions of war and disorder. In view of the temporary nature of the relief at issue, it is not reasonable to expect information about particular cases, which can only be gathered with the expenditure of considerable time and effort. Indeed, given the premise of civil war and social breakdown which lies behind such relief, it seems inherently unlikely that such information can be gathered.

However, despite these difficulties, cases of this kind have been identified through random monitoring of the public record. These are documented at Appendix III of the report which is appended to this statement. The American Civil Liberties Union has also attempted to ascertain further cases through examination of names and other identifying circumstances of deportees and those who have suffered humen rights violations in El Salvador. This research has yielded the names of 112 persons who are likely to have been killed, arrested or imprisoned upon their return to El Salvador. While inconclusive, these results are far more significant than the results of the administration's attempts to monitor this problem. The administration has conducted unreliable follow up checks on fewer than 500 deported Salvadorans. On the basis of this it seeks to conclude that there is no evidence of danger. The results of the ACLU's research are attached to this testimony (Evidence of Persons Returned to El Salvador and Subsequently Killed etc.).

Nevertheless, it is clear that a private group such as ours has neither the resources nor the access to sources of information to promptly arrive at reliable conclusions. Since the administration has made an issue of this question, and since the U.S. government is, through the embassy in San Salvador, best suited to such a task, it is only fair that the administration be asked to conduct such a study. It is worth noting that such a study is precisely what is recommended in a September 1983 staff report of the Senate Judiciary Subcommittee on Immigration and Refugee Policy entitled Refugee Problems in Central America.

The administration's approach to the necessity for such a study has been inconsistent, as has its approach to the requirements of a reliable study. It is frequently alleged that the Department of State has provided the I.N.S. with information that no individual has been returned to subsequently suffer death or other extreme harm. This conclusion has been arrived at by way of a half hearted investigation of an extremely small number of arbitrarily chosen cases. Clearly the likelihood of finding evidence of something depends on how carefully one is willing to look for it.

While continuing to make an issue of the fate of persons returned to El Salvador, and while continuing to allege that no evidence has been found of danger to returned Salvadorans, the administration seems also to believe that a truly reliable study is infeasible. Assistant Secretary of State Elliot Abrams stated recently in an interview with the Washington Monthly (February 1984) that, "Given the pressures on the embassy, all the things it has to do, it's a question of how much time they should spend on something we think is ridiculous."

The attitude reflected in this statement and in the failure to conduct a serious follow up study suggests cause for concern about the reliability of conclusions reached by the administration on this issue, now or in the future. If the administration is to continue to make an issue of the lack of proof of danger to individual Salvadorans who have been returned, it is fitting that it should reach conclusions on the basis of a sufficient investigation. HR 4447 does no more than to ask that such information be presented to Congress so that it may make an assesment of whether this reason of the administration's for declining to temporarily protect Salvadorans from deportation to El Salvador is either meritorious or relevant.

A careful reading of the administration's conclusions about the danger faced by persons returned from the U.S. to El Salvador indicates that these conclusions relate to a narrower issue than that posed by HR 4447. The Department of State concludes only that there is no evidence that returned individuals have been persecuted specifically because they left the country and then returned. That a person has not been persecuted specifically for the act of leaving El Salvador suggests nothing about whether these persons are, as a group, subject to danger for other reasons.

Indeed, if a study were to indicate that these persons have, as a group, been subject to exceptional dangers of persecution over and above the general danger of violence faced by all civilians in El Salvador, they would then qualify for asylum. That in turn is, as we argue above and below, a quite distinct issue from that of whether all persons who are returned face an intolerable degree of danger. This last is all that is relevant to determining the propriety of the relief provided by HR 4447.

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The conditions to which Salvadorans would be returned if they were deported to El Salvador are, as is suggested by the figures on non-combatant deaths, quite appalling. The legal aid office of the Archdiocese of San Salvador, Tutela Legal, reports an increase in willful violence in the last six months of 1983 over the first six months of the same year. Such willful violence is frequently also random and arbitrary, and as such reflects what the Commander of the U.S. military group in El Salvador has called an "ambience" of violence. Salvadorans in the United States who are afraid of such generalized violence are routinely denied asylum by the I.N.S. and by immigration judges on the grounds that their fear of returning is not specifically related to personal political factors.

The pervasive violence which characterizes life in El Salvador today may be appreciated by reference to selected statistics. According to the latest estimates provided by the Department of State in its _Country Reports on the World Refugee Situation_ for Fiscal Year 1984, approximately 10 percent of the total population of El Salvador has been displaced within the country. A further 15 percent has left El Salvador.

Persons who return to El Salvador from the United States have a higher likelihood than average of spending some time as members of the displaced population, since they will at least have to make the difficult and dangerous way back to their home villages or towns. They will generally have to do so without benefit of current identification documents, a factor which frequently gives rise to a suspicion by the Salvadoran security forces of subversive intent.

The information presented in the report which is appended hereto suggests that displaced persons in El Salvador are extremely vulnerable to violence, even when they are fortunate enough to belong to the small group which is able to shelter in facilities run by churches and voluntary agencies. No more than a half of the displaced population of El Salvador is cared for in this manner. The public record is also replete with instances of the harrassment and even imprisonment of religious and other humanitarian workers who attempt to care for them. Recent cases in point are the abduction and torture of Lutheran workers Dr. Ibarra, Rev. Gomez and Ramon Grande Garcia, and of Catholic workers Dinora Rodriguez de Coto, Roxana Guadalupe Funes and Marcos Antonio Coto Vega. Public record information also suggests that the nutritional and health conditions of displaced persons in El Salvador are appalling.

Those who are able to accomplish the difficult task of successfully running the gauntlet of civil war to escape to contiguous countries continue to experience hardship and danger in those countries. The Honduran security forces presume their sympathy with the Salvadoran insurgents across the border, and act accordingly. There continue to be reports of abduction by Salvadoran military or paramilitary forces of Salvadorans in Honduras. Some instances have been documented of collusion between Salvadoran forces and Honduran forces. Since the Honduran military guards the refugee camps in which Salvadorans are restricted, this pattern suggests extreme cause for concern.

Nor are Mexico or Guatemala any safer havens in the Salvadorans' relentless search for minimal personal security. All Salvadorans in Mexico, except a few hundred, are treated as illegal immigrants and are subject to deportation. A recent report by Dr. Sergio Aguayo of the Colegio de Mexico in Mexico City finds that relations between Mexicans and Salvadorans are positively hostile. According to this report, to be published shortly as _The Central American Exodus_ by the School of Advanced International Studies of The Johns Hopkins University, Salvadorans in Mexico receive almost no assistance, and are subject to extortion or violence by petty officials, smugglers and bandits.

Guatemala is suffering a civil war of its own, and the Salvadoran transit of that country is extremely hazardous. This is all the more so since the Guatemalan government has instituted a _cordon sanitaire_ (a general sealing of the border) to prevent Guatemalans from crossing into Mexico. Salvadorans who seek even merely to cross Guatemala, let alone remain there, are therefore subject to general security operations characterized by a practise of shooting first and asking questions later. As strangers to the area, they are unlikely to be able either to find safety or identify themselves satisfactorily to the Guatemalan authorities.

Recent developments suggest that such insecurities will continue to plague the condition of the Salvadorans in Honduras, Guatemala and Mexico. The recently announced plan of the Honduran government for the relocation of refugees away from the Salvadoran border has drawn the opposition of the Refugee Coordinating Committees of the major camps of Salvadorans. While mindful of the benefits of relocation away from the border, they are concerned that they will be dispersed in their new location and that they will be subject to arbitrary acts by the Salvadoran troops who will be trained only a few miles away. They also worry that there will be a closing off of the border which will prevent their compatriots from fleeing military hostilities across the border. Meanwhile, the Mexican government continues a trend toward greater restrictiveness in both its admissions procedures and its procedures for granting asylum. The number of all persons granted asylum in Mexico has diminished from a mere 75 in 1982 to 15 in 1983.

Its preliminary discussions of the relevant immigration policy considerations indicate that the administration has misconceived the purposes and rationale of the temporary relief provided by HR 4447. The administration has repeatedly pointed to the availability of case by case review of asylum claims. It has suggested that a nationality specific device such as is provided by HR 4447 was rejected by Congress when it adopted the comprehensive approach of the Refugee Act.

As we have noted, the purposes of the Refugee Act and those of a temporary device such as this are quite distinct. The Refugee Act provides for the admission of persons who have a well founded fear of persecution on account of certain specified factors. When Congress passed the Refugee Act it was aware of the simultaneous and parallel existence of the practise of extended voluntary departure. While the legislative history of the Refugee Act indicates that Congress did wish to end the use of the parole power to permanently admit refugees from outside the United States, it indicates no intent to discontinue the practise of temporary suspension of deportation of specific nationalities for exigent humanitarian purposes. This is corroborated by the administration's own continued use, since passage of the Refugee Act, of "extended voluntary departure" to benefit, among others, nationals of Lebanon, Afghanistan, Ethiopia and Poland. Of course, such a practise must by definition be nationality specific, since it depends upon an assesment of the advisability of returning persons to a particular national situation of civil war.

Furthermore, it is clear that not all Salvadorans will qualify for asylum under the narrower grounds of eligibility for that relief. This does not detract from the very real dangers which will nevertheless await them upon their return to El Salvador. Nor is it desirable that they be encouraged to apply for asylum in order to protect themselves from deportation. The asylum adjudications system is seriously backlogged. It is practical to remove inducements to ineligible persons to use the asylum process to protect themselves from deportation, particularly when the compelling nature of their fear of deportation suggests that they will use any available device.

It should also be noted that asylum, which can lead to permanent residence one year after it is granted, is a less flexible expedient than is the temporary relief from deportation provided by HR 4447. Not only do many Salvadorans not qualify for asylum, but many have no interest in remaining in the United States except for temporary protection. Indeed, the enjoyment of such temporary protection would encourage persons to make themselves known to the authorities, thereby facilitating the enforcement or their departure when conditions in their country improve sufficiently to make that appropriate.

That the administration presently has the authority to grant Salvadorans the temporary relief provided by HR 4447 is indicated by its own use of this authority to benefit deportable aliens of other nationalities. Such authority is derived from Sections 103, 242 and 244 of the Immigration and Nationality Act, as amended. Congress is called upon to act in this instance only because it is clear that the administration has refused to exercise its authority to benefit the Salvadorans. Congressional intervention is necessary to rectify discrimination in the administration of our immigration laws and to ensure that the national honor is not disgraced by the plainly inhumane practise of sending people back to the kind of terror and danger which characterize life in El Salvador today.

***

We have witnessed in the last few years the spectacle of respectable, law abiding U.S. citizens violating the law because of their perception of duty to a higher moral and humanitarian imperative. The existence of "sanctuary" churches for the benefit of Salvadorans seeking safe haven indicates the extent to which failure to act on compelling humanitarian claims will continue to breed disrespect for the laws. The combined effect of this and of the deleterious consequences of the existence of a large "underclass" of Salvadorans in our midst suggests that HR 4447 offers an opportunity to do well by doing good; to serve the national interest while maintaining our proud humanitarian traditions.

HR 4447 accomplishes its essential humanitarian and pragmatic purposes in the most modest manner. It requires no long term commitments. It contains a sunset provision. It requires that the already substantial premises upon which it is based be studied and corroborated in a joint effort of the administration and the Congress. The three year period of protection from deportation constitutes a maximum. The administration is at liberty to act sooner than absolutely required in submitting its studies. The Congress may choose to hold hearings earlier than the outside limit of two years which is provided, and it may at that time reconsider the issue in the light of new information. The terms of the legislation would allow for reconsideration as soon as the administration completes its studies and the Congress decides to act again.

The American Civil Liberties Union urges prompt favorable action on HR 4447.

SELECTED STATISTICS ON SALVADORANS IN THE UNITED STATES.
(Compiled from figures released by the U.S. Immigration and Naturalization Service.)

SALVADORANS RETURNED TO EL SALVADOR

Fiscal Year 1983:

Persons Returned Under Final Orders of Deportation: 3175
Persons Otherwise Required to Depart: 1627

Total for fiscal year 1983 4802

Fiscal Year 1982:

Persons Returned Under Final Orders of Deportation: 2118
Persons Otherwise Required to Depart: 3454

Total for fiscal year 1982 5572

*****

ASYLUM APPLICATIONS OF SALVADORANS

First half of Fiscal Year 1984
(October 1 1983-March 31 1984)

Asylum Applications Denied: 6130
Asylum Applications Granted: 211

Fiscal Year 1983:

Asylum Applications Denied: 2914
Asylum Applications Granted: 71

Salvadoran Asylum Applications Pending on March 31 1984: 13,501

COMPARATIVE STATISTICS ON U.S. ASYLUM DECISIONS
(Compiled from figures released by the U.S. Immigration and Naturalization Service.)

NATIONALITY	APPLICATIONS (OCTOBER 1 1982 - MARCH 31 1984) GRANTED	DENIED	CASES PENDING
EL SALVADOR	282	9,044	13,501
IRAN	3,704	1,711	9,661
NICARAGUA	655	3,132	11,708

SUMMARY: Salvadoran asylum applications exceed Nicaraguan applications by approximately 17% and Iranian applications by 50%. Nevertheless Salvadoran applications are being processed at over twiçe the rates of the other two. The three nationalities were chosen because they reflect the bulk of the active asylum docket.

PERCENTAGES OF SUCCESSFUL ASYLUM APPLICATIONS
(For the same 18 month period.)

EL SALVADOR	3.02%
IRAN	68.40%
NICARAGUA	17.30%

PERCENTAGES COMPARING SUCCESS RATES FOR FY1983 AND FIRST HALF OF FY1984

	FY 1983	FY 1984
EL SALVADOR	2.38%	3.33%
IRAN	75.83%	62.83%
NICARAGUA	6.53%	23.90%

FIGURES ON DETENTIONS OF SALVADORANS.

INS figures reveal that at any given time in the last year there have been between 700 and 1000 Salvadorans in detention. Between October 1983 and April 1984, of some 27,000 non-Mexican aliens detained by the INS, almost 11,000 were Salvadorans.

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EVIDENCE OF PERSONS RETURNED FROM THE U.S. TO EL SALVADOR AND SUBSEQUENTLY KILLED, IMPRISONED OR DISAPPEARED.

The ACLU has attempted to study the fates of persons returned to El Salvador by the U.S. government between March 1981 and March 1983. Our tentative findings indicate at least 112 identified persons are likely, with varying degrees of probability, to have been killed, disappeared, arrested, tortured or imprisoned, according to reports prepared by human rights monitoring agencies.

The list of names is attached hereto. The list which will be used for public circulation has had surnames removed. This is to protect persons who are still alive and the relatives of all the persons who are reported as suffering human rights violations.

The preliminary findings indicate that of the 112, 52 were confirmed killed. 47 disappeared, 43 of them following an arrest. These must be considered long term prisoners at best. A further 7 were reported arrested only, while another 5 were reported arrested and imprisoned as political prisoners, including one who was also tortured. In the cases of 50 of these names there is an average or better probability that the person deported was the same person as the person suffering the human rights violations. The rest represent cases where there was insufficient information to confirm the match or where the names involved were too common to suggest a high probability. The probability in each case was assessed by reference to information about various characteristics such as addresses.

These figures were arrived at by means of an extremely stringent methodology and represents the absolute minimum figure. Their fates are established as clearly as is possible without onsite individual investigation, which would be dangerous and, in view of people's unwillingness to speak of such matters in El Salvador, inconclusive. The incompleteness and defects of the lists from which these cases were identified suggests that there are likely to be many other such cases which cannot be identified or confirmed.

The findings also do not include those cases which have been identified from public sources such as newspapers and which are documented in Appendix III of the ACLU Report, _Salvadorans in the United States: The Case for Extended Voluntary Departure_.

The ACLU believes that this constitutes a _prima facie_ case that persons returned to El Salvador have faced significant dangers. The Administration considers this evidence inconclusive, which it is. However, this evidence is considerably more conclusive that there is a problem than is the evidence offered by the Administration in its attempt to show that there is no problem. The Administration has followed the fates of only 500 persons who were returned. This follow up has been of the most perfunctory kind, either relying on persons to take the initiative of writing to the U.S. embassy regarding their experiences since repatriation (highly unlikely, particularly if one is fearful of being identified as a subversive), or interviewing neighbors with no consideration of people's reluctance to speak of such matters.

Indeed, the Assistant Secretary of State for Human Rights has publicly and frequently stated that it would be "ridiculous" for even the U.S. embassy to attempt a study of any scope, given the inherent difficulty of such an enterprise and the conditions in El Salvador under which it would be attempted.

The Administration has reached negative conclusions on the basis of a desultory study of a tiny sample. The ACLU has identified some cases on the basis of its study of an incomplete but much more extensive sample.

Positive evidence from a limited sample, particularly when culled from defective lists and pursuant to a strict methodology, suggests that a fuller and better sample would reveal an even larger number of cases. Negative conclusions from a limited sample have the opposite significance, since a fuller sample would only increase the likelihood of positive proof being established.

Yet the administration discounts the positive indication of danger as inconclusive. We would maintain that this evidence is AT LEAST as conclusive as the lack of evidence alleged by the administration.

THE RELEVANCE OF THE INFORMATION

The question of the fate of persons repatriated to El Salvador has been raised by the Administration in a general manner without any attempt to distinguish between the two quite distinct issues to which it might or might not be relevant. The Administration has offered its "findings" to suggest that temporary relief from deportation, such as is provided by S 2131 and HR 4447 or presently enjoyed as "extended voluntary departure" by Poles, Ethiopians, Lebanese and Ugandans, is unnecessary because repatriated Salvadorans are in no danger upon their return.

However, this degree of specific proof of the fates of individuals has never been made an issue until now where extended voluntary departure or temporary relief from deportation was granted. It is irrelevant to the decision on such temporary relief, which rests on the generalized danger to all persons from generalized conditions of violence and civil disorder.

Indeed, the lists of human rights violations from which the ACLU tentatively identified the 112 Salvadorans repatriated by the U.S. did not include the numbers of civilians who have been killed merely as innocent bystanders in military hostilities. The list does not therefore include cases which would have to be considered relevant to temporary relief from deportation. These are likely to be far more numerous. The names of persons who have suffered this type of danger are not systematically recorded. It is impossible to establish which specific returned individuals have suffered in this manner. Thus, the only viable way of establishing the degree of this kind of danger to persons who are returned is by making an educated inference on the basis of what is known about the pervasiveness of danger to anyone in El Salvador.

Relevant or not, we believe that the best evidence indicates that the U.S. has returned persons to El Salvador who have subsequently been killed or disappeared.

The fates of repatriated persons are also relevant to issues which arise in individual asylum proceedings, notably whether repatriated persons are, as a social group subject to persecution, and whether an individual's fear of returning is well founded. Consideration of both the ACLU and the U.S. government findings offers some support for both propositions and no refuting evidence.

THE ACLU STUDY AND ITS SIGNIFICANCE

The names of persons returned to El Salvador by the U.S. government between March 1981 and March 1983 were matched with the available names of persons who had suffered human rights violations in El Salvador in until December 1983. We had available to us the names of fewer than a half of the total numbers of _reported_ human rights violations.

The matching process identified 52 persons who were confirmed killed in political violence. 7 were reported arrested, and a further 5 were held as political prisoners. 47 persons were accounted as disappeared, and 43 were identified as having been captured and "disappeared" in a violent fashion. It is important to remember that "disappeared" in this context represents persons who cannot be confirmed dead but are not expected to return alive, rather than our notion of a "missing person". The descriptions of the seizures of these persons suggest that they were likely to be killed, perhaps following torture and interrogation. The bodies of persons who suffer this kind of fate are very rarely found in any kind of identifiable form.

While it can obviously not be confirmed that the persons killed or disappeared were certainly the same persons as those who were deported, we have used a stringent methodology to establish the match as firmly as is possible without on-site investigation. Furthermore, the list that we have prepared indicates the probability of identicalness in each of the identified cases. The factors which entered into that determination are set out in the affidavit of Maria Boza, which precedes the lists.

Preliminary inquiries have been made to Salvadoran human rights monitors about the feasibility of follow up on cases where there is a tentative showing of harm to persons returned. These monitors have indicated that they have neither the resources nor the access to attempt follow-up confirmation. The tentative conclusions of the ACLU study are therefore based on the best evidence available under the circumstances. As indicated above, the Assistant Secretary of State for Human Rights has frequently stated that it is "ridiculous" to expect even the U.S. government to conduct an on-site follow-up of any significant scope.

The names of returned persons were obtained by Freedom of Information Request to the Immigration and Naturalization Service (INS). The names of persons killed or disappeared were obtained from the lists compiled by various human rights monitoring agencies, such as Amnesty International, the Legal Oversight Office of the Archdiocese of San Salvador and the Human Rights Commission of El Salvador (CDHES).

The names which were matched constitute only a fraction of the total numbers of victims of persecution and persons returned. We only had available the names of persons returned to El Salvador in the 2 year period March 1981 to 1983. The INS has informed us that further information will not be available until October or November of this year.

Furthermore, some of the lists released by the INS were useless for purposes of proof because they omitted one of two surnames (Spanish surname system), the middle name or addresses. This frequently made it impossible to use this information in the context of the requirements of the methodology described below. Some or the lists provided by INS were illegible. Approximately 40% of the names provided by INS were of doubtful usefulness.

The names, and where available other identifying characteristics, of persons sent back to El Salvador were compared to lists compiled by Salvadoran and international human rights agencies of persons who had suffered human rights violations in El Salvador. The total number of such reported instances is itself only an incomplete record of total incidents. We only had available to us for purposes of the study approximately forty percent of the reported incidents.

Thus the names identified have been out of an extremely limited sample. Furthermore they have been tested by the stringent methodology which is described in the affidavit of Maria Boza.

THE ADMINISTRATION'S ARGUMENTS

The Administration states that it has conducted a survey of a randomly chosen list of 500 persons who were returned to El Salvador, and that it has found no evidence of persons suffering danger upon their return. As stated above, A NEGATIVE RESULT FROM SUCH A SMALL SAMPLE IS QUITE INCONCLUSIVE.

This is all the more so under the circumstances characteristic of El Salvador where effective investigation is hampered by the problems of access posed by widespread violence, and where people are reluctant to publicly discuss "troubles". This is because a culture of mutual suspicion readily produces inferences of subversiveness. Indeed, the administration has acknowledged that little investigation has been done in the countryside, where much of this violence is taking place.

Surveying a minuscule portion of the universe of returned persons, the administration draws conclusions from the lack of evidence in that minuscule portion. Yet it discounts positive evidence produced as a result of the limited study conducted by the ACLU which would suggest the existence of additional cases in the portion not studied.

Finally, when it speaks of the supposed lack of evidence, the Administration seems to be discussing an extremely narrow issue: viz. whether repatriated Salvadorans have been "persecuted specifically because of their status as returnees". It has been noted above that it is extremely difficult to conduct any kind of study under the conditions in El Salvador. Such conditions certainly make it impossible to determine the precise reason that a person has been killed or disappeared. Furthermore, this is a red herring where temporary relief from deportation is concerned. Persecution in the narrow sense of the term is not relevant to that, but rather only to individual asylum decisions.

DECLARATION OF MARIA DEL CARMEN BOZA

I, MARIA DEL CARMEN BOZA, state as follows:

1. I am the coordinator of the Documentation Center of the Political Asylum Project of the American Civil Liberties Union National Capital Area Fund, a data base on the human rights situation in El Salvador. I studied data base management at the Public Interest Computer Association and am the designer of the data base. I am Cuban-born and therefore fluent in Spanish and knowledgeable of Spanish culture. Since 1960 I have lived in the United States and am currently residing in Maryland. I can be reached at P.O. Box 5404, Takoma Park, Maryland 20912.

2. Since July 1983, I have concentrated my efforts in attempting to determine the fate of Salvadoran refugees deported from United States territory. In that respect, I established a computer list of all Salvadoran refugees deported from the United States or submitted to voluntary departure proceedings between March 1981 and June 1983. I obtained the names from two sources. One set of names was obtained by various church groups from the Immigration and Naturalization Service through a request under the Freedom of Information Act. This information has been examined in Appendix 1. The second and third set of names was provided to us by the INS on two different occasions in response to the same request. I examined this information in Appendix II and III.

3. I compared these names of returned or deported Salvadorans with the names of Salvadorans who were killed or have "disappeared" in El Salvador after their return. I obtained those names (the victims' lists) from mainly five sources: (1) Tutela Legal, the current Legal Oversight Office of the Archbishopric of San Salvador; (2) Socorro Juridico, the former Legal Aid Office of the Archbishopric of San Salvador; (3) Amnesty International; (4) Comision de Derechos Humanos de El Salvador, the nongovernmental Salvadoran human rights commission; (5) the Committee of Mothers of the Disappeared, a group of mothers and other relatives of victims of human rights violations.

4. In my examination, I took into account the following factors: (1) the first surname, second surname, first name, middle name, married name; (2) the number of name elements available and the commonness of them; (3) the return date and the

date of the human rights violation; (4) addresses, to the extent that they were available. I examined a list of 8500 returnees and 22,000 human rights violations, whereby the list of human rights violations contained many duplicates due to the fact that my sources worked independently or produced multiple reports on the same violation. I matched the real violations against the names of returned or deported Salvadorans. My work with these lists has taken me nine months. I am still working on my study. So far I have produced the attached appendices, which contain a total of about 120 names that are both on the victims' lists and on the list of returnees. The degrees of probability that these names represent the same bodies vary. However, for some of the names the probability that the names represent the same person is extremely high; for others, some international investigation seems necessary.

I demand and authorize ECKART BROEDERMAN to strike out the surnames in the appendices because revelation of these names to anyone in El Salvador could prove fatal in the event that I am wrong about any of these names. Even if only one of the 120 persons is still living, this person needs protection. However, I am willing to produce the names on a confidential basis to any international body that decided to investigate the fate of these persons.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 2 day of May 1984.

Maria del Carmen Boza
Maria del Carmen Boza

STATE OF MARYLAND)
) ss:
COUNTRY OF MONTGOMERY)

Sworn to before me this 2d day of May, 1984.

Sarah K. Householder
SARAH K. HOUSEHOLDER
Notary Public
My Commission Expires: 7-1-86

A KEY TO READING THE LISTS

1. The letter code in the left hand margin indicates the type of human rights violation suffered:

K	Killed
A	Arrested
D	Disappeared
P	Political Prisoner
T	Tortured

2. The "Victims List" column indicates all the human rights reporting lists which have reported the person as suffering a human rights violation. The codes refer to the following reporting lists:

Amnesty International

AI1, AI2, AI5 : Amnesty International, Central America Special Action Bulletins.

Other AI codes: Amnesty International Urgent Action Bulletins.

Committee of Mothers and Families of the Disappeared

LI16	1981
LI15	1982
LI14	1983

Legal Oversight Office of the Archdiocese of San Salvador. "Tutela Legal"

LI19, LI39, LI72 through LI79 Reports of human rights violations in 1982

LI2 through 7, LI68, LI69, LI90, LI96 Reports of human rights violations in 1983

Lists Compiled by Political Prisoners

LI6

LI17

[Non-governmental] Human Rights Commission of El Salvador-CDHES

LI 26 through LI 37 Cases reported in 1982

LI21 through LI25, LI57 Cases reported in 1983

Socorro Juridico, formerly the Legal Aid Office of the Archdiocese of San Salvador.

LI8, LI9	Peasants. 1980-1982
LI12	Students and Teachers
LI13,LI20	1981
LI18	Workers. 1980-1982
LI40	Children Feb 1980-May 1981
LI41	Politically Disappeared 1966-1981
LI42	1982
LI59	Paramilitary Bands 1980-1982
LI61	Killed, 1981
LI63	Forced Disappearances, 1981
LI82	March 20-April 16 1982
LI97	1983

Other

LI89	Radio Venceremos

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SURNAMES HAVE BEEN REMOVED FROM THE FOLLOWING LISTS TO PROTECT RELATIVES OR THOSE WHO ARE STILL ALIVE.

THE LISTS SUBMITTED TO CONGRESS AND THE STATE DEPARTMENT FOR VERIFICATION INCLUDE ALL AVAILABLE DETAILS.

No.	Returnee	Victim	Date Removed	Date of Incident	first surname	Element Matching first name	middle name	second surname	address available	Returnee List	Victims' List	Nominal frequency	Probability of Identicalness
AD 1	Jorge Alberto	Jorge Alberto	6/19/81	12/4/82	X	X	X		NO	1	L115	Fairly Common	Average
D 2	Maria Concepcion	Maria	3/19/81	9/11/81	Married Name on Victim List	X			YES. Not Corroborative.	1	L141	Fairly Frequent	Low
AD 3	Juan Dimas	Juan Dimas	4/24/81	10/30/81	X	X	X		YES. Not Corroborative.	1	L18. L116 L141	Very Common	Low
AD 4	Carlos	Carlos Gustavo	6/17/81	9/19/82	X	X	Only on Victim list		YES. Not Corroborative.	1	L115	Average	Below Average
AD 5	Carlos	Carlos Ernesto	6/17/81	8/31/82	X	X	Only on Victim List		YES. Not Corroborative.	1	L115	Average	Below Average
AD 6	Juan	Juan Rigoberto	3/10/81	4/12/81	X	X	Only on Victim List		Yes. Not Corroborative.	1	L113 L141	Fairly Common	Low
AD 7	Juan	Juan Roberto	3/10/81	4/9/81	X	X	Only on Victim List		Yes. Not Corroborative.	1	L116	Fairly Common	Low
K 8	Juan	Juan Tobias	3/10/81	7/3/83	X	X	Only on Victim List		Yes. Corroborative.	1	L168	Fairly Common	Low
A 9	Gomez Daniel	Gomez Daniel	5/20/81	12/4/81	X	X		X	Yes. Corroborative.	1	A12	Average for Individual Elements.	Very High
D 10	Manuel	Manuel de Jesus	7/13/81	7/26/81	X	X	Only on Victim List	X	Yes. Not Corroborative.	1	L141	not Common Common	Above Average

No.	Returnee	Victim	Date Removed	Date of Incident	Element Matching first surname	first name	middle name	second surname	address available	Returnee List	Victims' List	Nominal frequency	Probability of Identicalness
AD 11	Manuel de Jesus	Manuel de Jesus	7/23/81	9/25/82	X	X	X		YES	1	L115	Average	Above Average
K 12	Maria de los Angeles	Maria	7/2/81	4/17/82	Married Name on Ret. List	X	Only o Ret. List		YES	1	L129	Average	Below Average
K 1	Julio Cesar	Julio Cesar	6/3/81	6/23/82	X	X	X	X	YES. Corroborative.	1	L131 L173	Common Average	High
K 14	Carlos Mauricio	Carlos	5/20/8	12/20/82	X	X	Only o Ret. List		YES	1	L17	Common	Below Average
AD 1	Jose	Jose Armando	7/31/8	12/20/82	X	X	Only o Victim List		YES. Not Corroborative.	1	L115	Fairly Common	Below Average
1													
ATP 1	Ana	Ana Maria	6/12/81	8/20/81	X	X	Only o Victim List		NO	1	L141 A15 A16	Very Common	Low
AP 1	Jose Ernesto	Jose Ernesto	3/12/81	4/25/81	X	X	X	X	YES. Corroborative.	1	L140	Common Average	High
AD 1	Mauricio	Mauricio Edgardo	8/12/81	10/31/8	X	X	Only o Victim List		YES. Not Corroborative.	1	L116	Common	Low
K 20	Ana Maribel	Ana	1/10/81	10/17/8	X Diff. May be Typo.	X	Only o Ret. List		No	1	L189	Average	Below Average

	No.	Returnee	Victim	Date Removed	Date of Incident	Element Matching					Returnee List	Victims' List	Nominal frequency	Probability of Identicalness
						first surname	first name	middle name	second surname	address available				
AD	21	Hector	Hector Eduardo	7/31/81	10/29/82	X	X	Only on Victim List		YES. Corrobora-tive.	1	L115	Common	Low
AD	22	Jorge Alberto	Jorge Alberto	1/19/81	1/27/82	X	X	X		YES. Not Corrobora-tive.	1	L115	Very Common	Low
AD	23	Jorge Alberto	Jorge Alberto	3/19/81	3/24/82	X	X	X		YES. Not Corrobora-tive.	1	L115	Very Common	Low
K	24	Jorge Alberto	Jorge	3/19/81	11/17/81	X	X	Only on Ret. List		YES. Not Corrobora-tive.	1	L161	Very Common	Low
K	25	Jose Tomas	Jose Tomas	6/24/81	-	X	X	X		YES. Not Corrobora-tive.	1	L179	Very Common	Low
K	26	Jose Tomas	Jose	6/24/81	7/10/81	X	X			YES. Not Corrobora-tive.	1	L19 L120 L146	Very Common	Low
A	27	Jose Tomas	Jose	6/24/81	4/19/82	X	X	Only on Ret. List		YES. Not Corrobora-tive.	1	L142 L182	Very Common	Low
AD	28	Cristobal	Cristobal	5/27/81	12/ /82	X	X			YES. Not Corrobora-tive.	1	L115	Average	Average
AK	29	Armando Antonio	Armando Antonio	6/3/81	6/10/82	X	X	X	X	YES. Corrobora-tive.	1	L115 L119 L131 L139 L171	Not Common	Very High
K	30	Maria	Maria Vicenta	6/27/81	2/13/83	Married Name on Ret. List	X			YES. Corrobora-tive.	1	L12 L122	Common	Low

	No.	Returnee	Victim	Date Removed	Date of Incident	Element Matching				address available	Returnee List	Victims' List	Nominal frequency	Probability of Identicalness
						first surname	first name	middle name	second surname					
D	31	Guillermo	Guillermo	4/24/81	10/17/81	X	X			YES. Not Corroborative.	1	L141	Common	Low
A	32	Oscar Armando	Oscar Armando	7/7/81	2/5/82	X	X	X		YES. Not Corroborative.	1	L197	Average in Combination	Average
AD	33	Santos [illegible]	Santos	7/23/81	10/ /81	X	X	Only on Ret. List		NO	1	L18 L116 L141 L172	Average	Below Average
K	34	Jorge Alberto	Jorge Alberto	6/3/81	7/18/83	Diff. May be Typo.	X	X		YES. Corroborative.	1	L168	Average	Average or Better
K	35	Gilberto	Gilberto	1/4/82	1/4 or 1/8/82	Diff. May be Typo.	X			YES. Not Corroborative.	1	L112 A13	Less Than Average	Average
AD	36	Carlos Antonio	Carlos	3/26/81	10/7/81	X	X	Only on Ret. List		YES. Not Corroborative.	1	L16	Common	Low
AD	37	Carlos Antonio	Carlos	3/26/81	9/19/81	X	X	Only on Ret. List		YES. Not Corroborative.	1	L118 A15	Common	Low
AD	38	Juan Miguel	Juan	4/22/81	2/16/82	X	X	Only on Ret. List		YES. Not Corroborative.	1	L115	Average	Below Average
K	39	Jose Mauricio	Jose	5/20/81	2/12/82	X	X	Only on Ret. List		YES. Not Corroborative.	1	L127	Very Common	Low
K	40	Jose Rolando	Jose	1/20/81	2/12/82	X	X	Only on Ret. List		YES. Not Corroborative.	1	L127	Very Common	Low

No.	Returnee	Victim	Date Removed	Date of Incident	Element Matching				address available	Returnee List	Victims' List	Nominal frequency	Probability of Identicalness
					first surname	first name	middle name	second surname					
K 41	Angela	Angela	7/11/81	5/29/82	Married Name in Ret. List	X			NO	1	A12 L119 L130 L172	Common	Average or Below
A 42	Juan	Juan Maria	6/29/81	9/1/81	X	X	Only on Victim List		YES. Not Corroborative	1	L120	Common	Low
K 43	Juan	Juan del Carmen	6/29/81	9/1/81	X	X	Only on Victim List		YES. Not Corroborative	1	L129	Ret. Name-Common Victim Name-Less so	Low
K 44	Juan	Juan Martin	6/29/81	8/7/82	X	X	Only on Victim List		YES. Not Corroborative	1	L133	Common	Low
AD 45	Carlos Antonio	Carlos Antonio	5/13/81	5/21/82	X	X	X	X	YES. Corroborative	1	L115	Average	Very High
K 46	Jorge	Jorge Alberto	6/1/81	6/17/83	X	X	Only on Victim List	X	YES. Corroborative.	1	L17	Common	Average or Better
K 47	Roberto	Roberto	5/16/81	6/17/83	X	X			YES. Corroborative.	1	L17	Common	Low
A 48	Carlos Ernesto	Carlos	4/10/81	11/9/83	X	X	Only on Victim List		YES. Not Corroborative.	1	L196	Average	Average
AD 49	Alberto German	Alberto	5/1/81	10/26/81	X	X			YES. Not Corroborative.	1	L116	Average	Below Average

No.	Returnee	Victim	Date Removed	Date of Incident	first surname	Element Matching first name	middle name	second surname	address available	Returnee List	Victims' List	Nominal frequency	Probability of Identicalness
50 AD	Marcos	Marcos Ernesto	4/3/81	5/4/82	X	X	Only on Victim List		YES. Not Corrobora-tive.	1	L159	Average	Below Average
51 AD	Cesar	Cesar Ernesto	4/9/81	7/14/82	X	X	Only on Victim List	X	YES. Corrobora-tive.	1	L115 L119 L175	Average or Rarer	High
52 A	Antonio	Antonio	11/ /82	5/13/81	X	X			NO	2	L197	Common	Low
53 K	Luis	Luis Antonio	6/ /82	9/13/82	X	X	Only on Victim List		NO	2	L176	Average	Average
54 AD	Jose R.	Jose Rafael	4/ /82	9/ /82	X	X	Middle Initial Matches		NO	2	L115	Average	Above Average
55 K	Victor	Victor Manuel	9/ /81	7/28/82	X	X	Only on Victim List		NO	2	L132 L174	Average	Average
56 AD	Jose	Jose Manuel	10/ /81	1/21/82	X	X	Only on Victim List		NO	2	L115	Common	Low
57 AD	Maria	Maria O.	2/ /83	5/11/83	X	X	Only on Victim List	Only on Victim List	NO	2	L169	Common	Low
58 AD	Jose M.	Jose Maximiliano	2/ /82	6/3/82	X	X	Only on Victim list		NO	2	L115	Common	Average
59 AD	Jose M.	Jose	2/ /82	6/3/82	X	X			NO	2	L115	Common	Low

No.	Returnee	Victim	Date Removed	Date of Incident	first surname	Element Matching first name	middle name	second surname	address available	Returnee List	Victims' List	Nominal frequency	Probability of Identicalness
K 60	Miguel A.	Miguel Angel	1/ /82	7/30/81	X	X	Only on Victim list		NO	2	L.169	Average	Above Average
K 61	Jose	Jose	6/ /82	1/23/81	X	X			NO	2	L.121	Average or Rarer	Average
K 62	Juan R.	Juan	6/ /82	-	X	X			NO	2	L.172	Very Common	Low
AD 63	Jose A.	Jose Antonio	2/ /82	6/29/82	X	X	Only on Victim list		NO	2	L.115	Common	Average
AD 64	Jose A.	Jose	9/ /81	10/20/81	X	X	Only on Ret. List	X	NO	2	L.116	Fairly Common	Average
A 65	David	David	1/ /83	10/4/83	X	X			NO	2	L.194	Average	Average
K 66	Carlos	Carlos Eduardo	1/ /82	2/2/82	X	X	Only on Victim List	X	NO	2	L.127	Average to Fairly Common	Above Average to High
K 67	Carlos A.	Carlos	12/ /82	-	X	X	Only on Victim List	X	NO	2	L.14	Common	Average
AD 68	Juan A.	Juan Antonio	8/ /82	8/3/82	X	X	Initials Matched		NO	2	L.115	Common	Below Average
K 69	Miguel	Miguel	8/ /82	10/17/82	X	X			NO	2	L.189	Common	Low

No.	Returnee	Victim	Date Removed	Date of Incident	first surname	Element Matching			address available	Returnee List	Victims' List	Nominal frequency	Probability of Identicalness
						first name	middle name	second surname					
70 AD	Jose	Jose Roberto	5/ /82	5/10/82	X	X	Only on Victim List	X	NO	2	L175	Fairly Common	Average
71 K	Jose L.	Jose Luis	12/ /82	6/14/83	X	X	Initial Matches		NO	2	L17	Common	Low to Below Average
72 K	Manuel de Jesus	Manuel de Jesus	10/ /82	10/11/82	X	X	X		NO	2	L135	Common	Average
73 K	Carlos A.	Carlos	3/ /82	10/ /82	X	X	Only on Victim List		NO	2	L177	Common	Low
74 K	Efrain	Efrain	4/ /82	4/10/82	X	X			NO	2	L129	Common Efrain-Uncommon	Average
75 D	Guillermo	Guillermo	9/ /81	10/17/81	X	X			NO	2	L141	Common	Low
76 AP	Jorge	Jorge Alberto	11/ /82	1/27/83	X	X	Only on Victim List		NO	2	L14	Common	Low
77 AD	Maria E.	Maria Elena	1/ /82	8/20/82	X	X	Initial Matches		NO	2	All L157 L175	Fairly Common	Below Average
78 K	Rafael	Rafael	2/ /82	11/23/82	X	X		X	NO	2	L136	Average	Above Average to High
79 K	Jose A.	Juan Alfredo	5/ /82	6/19/83	X	X	Initial Matches		NO	2	L17	Uncommon	Above Average to High

No.	Returnee	Victim	Date Removed	Date of Incident	First surname	Element Matching First name	middle name	second surname	Address available	Returnee List	Victims' List	Nominal Frequency	Probability of Identification
AP 80	Jose A.	Jose Alberto	12/ /82	4/16/81	X	X	Initial Matches	X	NO	2	L117	Average	High
K 81	Carlos	Carlos	5/ /82	11/9/81	X	X			NO	2	L196	Average	Below Average
K 82	Raul G.	Raul	6/ /82	12/17/82	X	X	Only on Ret. List		NO	2	L137 L179	Fairly Rare	Above Average
K 83	Miguel Angel	Miguel Angel	8/ /82	11/14/82	X	X	X		NO	2	L136	Rare	High
AP 84	Carlos A.	Carlos Arnaldo	6/ /82	1/9/83	X	X	Initial Matches		NO	2	L117	Average	Above Average
AD 85	Jose V.	Jose	5/ /82	3/2/83	X	X	Only on Ret. List		NO	2	L13	Average	Average
AD 86	Jose V.	Jose	5/ /82	3/2/83	X	X	Only on Ret. List		NO	2	L13	Average	Average
AD 87	Jose	Jose Isidro	10/ /82	10/13/82	X	X	Only on Victim List		NO	2	L115	Average	Below Average
AD 88	Jorge Alberto	Jorge Alberto	9/ /82	2/25/83	X	X	X		NO	2	L14	Average	Above Average to High
K 89	Manuel de Jesus	Manuel de Jesus	9/ /81	6/24/82	X	X	X		NO	3	L131 L173	Average or Rarer	Above Average to High
K 90	Juan Francisco	Juan Francisco	2/ /81	11/21/83	X	X	X		NO	3	A111 A113 L190	Relatively Rare	Above Average to High

	No.	Returnee	Victim	Date Removed	Date of Incident	Element Matching					Returnee List	Victims' List	Nominal Frequency	Probability of Identicalness
						first surname	first name	middle name	second surname	address available				
AD	91	Roberto Eduardo	Roberto	8/ /81	6/4/82	X	X	Only on Ret. List		NO	3	L115	Rare	Above Average to High
K	92	Jose Roberto	Jose	12/ /81	2/3/82	X	X			NO	3	L127	Fairly Rare	Above Average
K	93	Armando	Armando	8/ /81	7/11/82	X	X		X	NO	3	L132	Average to Rarer	High
K	94	Carlos R.	Carlos	12/ /82	5/11/83	X	X	Only on Ret. List		NO	3	L125	Average	Below Average
K	95	Jose A.	Juan	1/ /83	2/16/83	X	X	Only on Ret. List		NO	3	L125	Rare Surname	Above Average
AD	96	Carlos	Carlos Armando	7/ /82	9/3/82	X	X	Only on Victim List		NO	3	L115	Common	Low
AD	97	Carlos	Carlos Alfredo	7/ /82	11/ /82	X	X	Only on Victim List		NO	3	L115	Common	Low
K	98	Juan F.	Juan	1/ /83	-	X	X	Only on Rep. List		NO	3	L172	Common	Low
AD	99	Maria	Maria Bernarda	4/ /82	12/ /82	X	X	Only on Victim List		NO	3	L115	Common	Low
AD	100	Francisco Antonio	Francisco	5/ /82	1/19/83	X	X	Only on Ret. List		NO	3	L114	Average	Average

No.	Returnee	Victim	Date Removed	Date of Incident	Element Matching				address available	Returnee List	Victims' List	Nominal frequency	Probability of Identicalness
					first surname	first name	middle name	second surname					
101 K	Ana Maria	Ana Maria	8/ /81	11/10/82	X	X	X		NO	3	L136 L178	Common	Low to Below Average
102 K	Jesus	Jesus	9/ /81	7/1/82	X	X			NO	3	L120	Very Common	Low
103 AD	Jesus	Jesus Trinidad	9/ /81	7/1/82	X	X	Only on Victim List		NO	3	L115 L119 L174	Very Common Surname	Low
104 AD	Manuel	Manuel de Jesus	8/ /82	11/3/82	X	X	Only on Victim List		NO	3	L115	Very Common	Low
105 AD	Jose Antonio	Jose Antonio	12/ /81	4/20/82	X	X	X		NO	3	L115	Average	Average
106 K	Jose Antonio	Jose Antonio	12/ /81	1/14/82	X	X	X		NO	3	L126	Average	Average
107 A	Vicente	Vicente	9/ /82	10/8/82	X	X			NO	3	A14	Average to Rarer	Average
108 K	Alberto Ninicio	Alberto	5/ /82	3/24/83	X	X	Only on Ret. List		NO	3	L123	Common	Low
109 K	Maria	Maria	1/ /83	4/20/83	X	X			NO	3	L124	Average	Below Average
110 K	Maria	Maria Teresa	8/ /82	9/19/82	X	X	Only on Victim List		NO	3	L176 L134	Average	Below Average
111 K	Roberto Antonio	Roberto	4/ /82	5/1/82	X	X	Only on Ret. List		NO	3	L110	Average to Common	Above Average

No.	Returnee	Victim	Date Removed	Date of Incident	Element Matching first surname	first name	middle name	second surname	address available	Returnee List	Victims' List	Nominal Frequency	Probability of Identification
K 11	Luis Roberto	Luis	11/ /8	1/19/82	X	X	Only on Ret. List		NO	1	L126	Average to Rarer	Average
K 11	Juan	Juan	10/ /82	1/19/83	X	X			NO	3	L121	Fairly Common	Below Average

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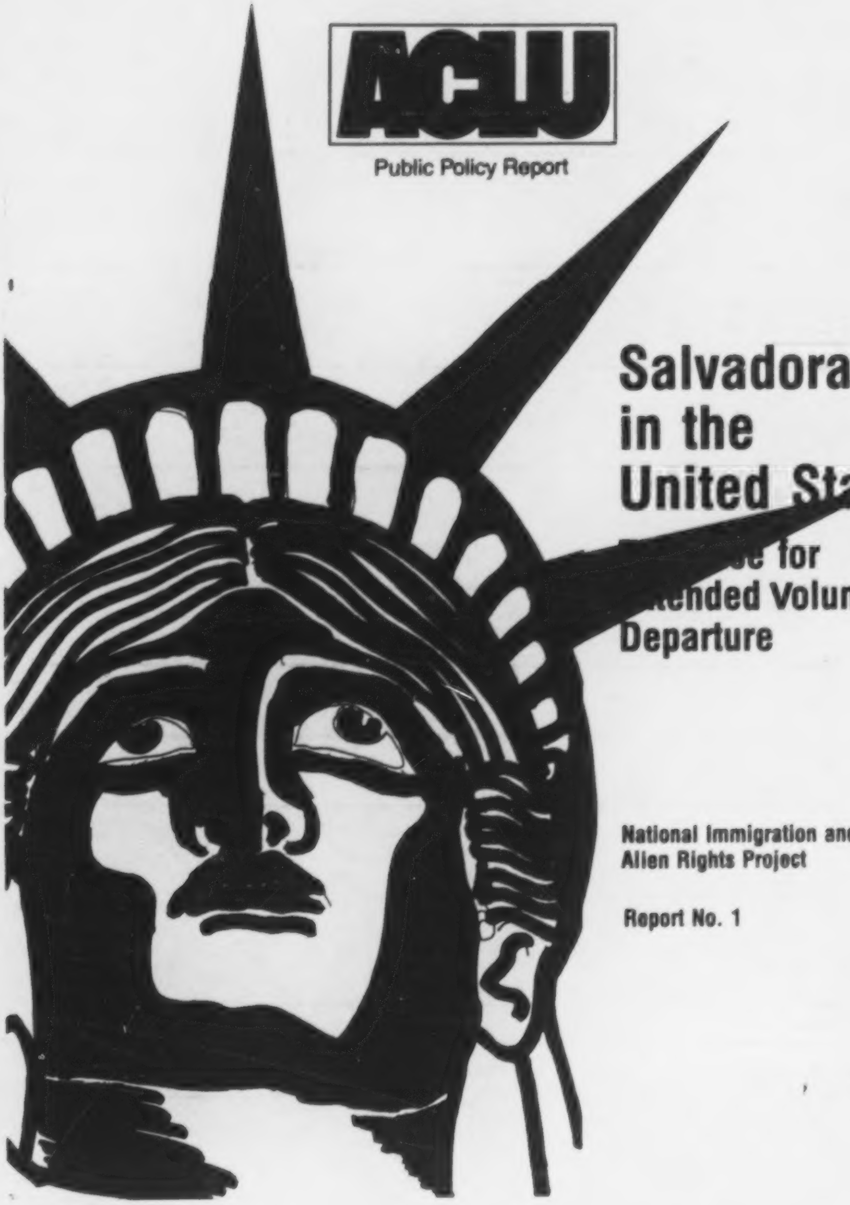
Public Policy Report



Salvadorans in the United States

se for
tended Voluntary
Departure

National Immigration and
Allien Rights Project

Report No. 1

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Also available are the following:

1. Report on Human Rights in El Salvador, compiled by the Americas Watch Committee and the American Civil Liberties Union (Vintage: New York 1982) 352 pages, $3.95, paperback, ISBN 394-71141-6.

2. July 20, 1982 - Supplement to the Report on Human Rights in El Salvador. Compiled by the Americas Watch Committee and the American Civil Liberties Union (CNSS: Washington, D.C. 1982) 276 pages, $6.00, paperback. ISBN 0-86566-026-3.

3. January 20, 1983 - Second Supplement to the Report on Human Rights in El Salvador. Compiled by the Americas Watch Committee and the American Civil Liberties Union (New York: AWC & CNSS 1983) 116 pages, $5.00. ISBN 0-86566-027-1.

4. July 19, 1983 - Third Supplement to the Report on Human Rights in El Salvador. Compiled by the Americas Watch Committee and the American Civil Liberties Union (New York: AWC & CNSS 1983) 116 pages. $5.00.

5. January 31, 1984 - Fourth Supplement: As Bad As Ever: A Report on Human Rights in El Salvador. Compiled by the Americas Watch Committee and the American Civil Liberties Union (New York: AWC & CNSS 1983) 74 pages. $5.00.

Salvadorans in the United States

The Case for Extended Voluntary Departure

National Immigration and Alien Rights Project

Report No. 1
April 1984

This Report was prepared by the Political Asylum Project of the American Civil Liberties Union Fund of the National Capital Area.

The Political Asylum Project seeks to secure fair consideration of claims of Salvadorans for asylum. It represents clients in administrative proceedings and in federal litigation. The Project also maintains a computerized data base on conditions in El Salvador, particularly with respect to violations of human rights. This information is available to Salvadorans seeking asylum in the U.S., to their attorneys or representatives, and to interested members of the public, the press and the U.S. Congress.

The following persons have contributed to this Report: Diana Bell, Kathryn Carovano, Stuart Gay, Sheila Murphy, Amit Pandya and Cindy Peterson.

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SUMMARY

Salvadorans in the United States:
The Case For Extended Voluntary Departure

Despite the well-documented dangerous conditions in El Salvador, the Reagan Administration has steadfastly refused to grant "extended voluntary departure" status (EVD) to Salvadorans in this country. This status is a temporary permission to remain in the U.S. It is granted at the discretion of the Attorney General to citizens of a country which is suffering dangerous conditions, and terminated when conditions permit their safe return.

This paper looks at each argument offered by the Administration in support of its refusal to grant it to Salvadorans. Close scrutiny suggests that these arguments are without merit. Indeed, foreign policy and immigration policy considerations argue strongly in favor of such status for Salvadorans. Humanitarian considerations leave us no alternative.

1. Danger in El Salvador.
   - "ambience" of violence, reflecting war, political violence, and total breakdown of law and order. (see text at page 12 and Appendix I).
   - displaced persons most likely to be victims of violence.
   - breakdown of essential elements of infractructure, such as sanitation, medical care, food delivery, and of the judicial system which now offers almost no protection to citizens.
2. Economic motive for migration is not relevant to standards for granting EVD.
   - relevant standard has always been a danger in applicant's homeland.

3. It will not encourage illegal immigration.

   -to those compelled to flee due to a legitimate fear of violence, the promise of temporary relief from deportation would not represent an added incentive to migrate.

4. No refuge is available in other countries.

   -public record clearly indicates that countries through which Salvadorans travel (Honduras, Guatemala and Mexico) do not constitute safe haven, even temporarily. (See text at page 42 and Appendix II).

   -only 14% of Salvadoran refugees in Central America receive protection or assistance from the United Nations High Commissioner for Refugees.

5. Asylum is not an adequate alternative.

   -asylum is intended for those who fear individual persecution.

   -EVD is intended for those who fear generalized violence.

   -granting of asylum admits persons on a permanent basis and entitles them to a wide range of benefits.

   -EVD admits persons on a temporary basis and entitles them only to seek authorization to work.

   -even Salvadorans who are eligible for asylum are frequently prevented from seeking it by discrimination against Salvadoran asylum seekers, lack of resources, and cultural and language problems.

6. Immigration policy will be served if EVD is granted to Salvadorans.

   -EVD would encourage Salvadorans to register with the authorities and obtain authorization to work.

   -This will allow immigration officials to enforce their departure when conditions in El Salvador permit their return.

   -It will also lessen the social ills which accompany illegality of status.

   -Granting Salvadorans EVD will conserve scarce INS enforcement resources for undocumented aliens who do not have the compelling humanitarian needs which Salvadorans do.

7. EVD would be consistent with U.S. foreign policy.

-No criticism of the Salvadoran government's human rights record need be implied; only a concern about danger to life and limb from all sources.

-Refugee movements increase regional instability. EVD will ease the burdens of this for already pressed governments such as Honduras.

-All other North and Central American countries now refrain from forcibly returning Salvadorans.

8. There are documented instances of persons forcibly returned from the U.S. to El Salvador and killed shortly thereafter. (Appendix III).

9. U.S. support for reforms in El Salvador will only provide relief in the long term. Speculative improvements in El Salvador provide no justification for the U.S. to ignore the immediate humanitarian claims of Salvadorans who have fled here.

SALVADORANS IN THE UNITED STATES: THE CASE FOR EXTENDED VOLUNTARY DEPARTURE

Introduction

The preponderant part of El Salvador is today, by all accounts, wracked by a civil war. This civil war consists of guerrilla operations and counter-insurgency operations, with constant shifts in control of particular pieces of territory. There has resulted a pervasive and continuous danger to the civilian population. According to conservative estimates, 30,000 civilians have been killed since the war began in 1979.[*]

There is a danger to civilians from the mere conduct of hostilities, since by the very nature of such a civil war every area is a potential battlefield. Many areas now experience hostilities, so the significance of this danger from belligerent crossfire is considerable.

There is also a distinct danger to civilians which is less random although no less arbitrary. This danger springs from the widespread suspicion and "hair-trigger" nervousness which inevitably characterizes wars of this kind. These in turn result in ready inferences that one is either a "subversive" or a supporter of the government forces, with serious consequences for the personal safety of civilians engaged in the everyday activities necessary to economic survival. Figures published by the Socorro Juridico Cristiano indicate that 2,823 non-combatant civilians were killed in 1983. The Legal Aid Office of the Archdiocese of San Salvador reports 5,132 political murders of civilians by the government in the same period. This office applies extremely high standards of proof before considering a human rights violation sufficiently documented.[*/]

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[*] Indeed, most reliable sources place this figure considerably higher. The Annual Report of the Inter-American Commission on Human Rights (Organization of American States), dated September 1982, reports 35,000 political deaths in the previous three years.

It is also universally acknowledged that the economic infrastructure of El Salvador is close to collapse.[**/] It must be emphasized that the humanitarian difficulties posed by this factor are more critical and specific than those which would be posed by the endemic economic crisis and intractable under-development which beset all developing

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[*/] See also Speech of Ambassador Deane Hinton to the American Chamber of Commerce, San Salvador, October 29, 1982:

> "The gorillas of this mafia, every bit as much as the guerrillas in Morazan and Chalatenango, are destroying El Salvador. . . Is it any wonder that much of the world is predisposed to believe the worst about a system which almost never brings to justice either those who perpetrate these acts or those who order them?" Washington Post, October 30, 1982, Pg. A1.

[**/] Figures compiled by the U.S. Embassy in El Salvador indicate that, in the period 1979-82, lost agricultural production alone accounted for economic costs some 60% higher than direct military costs. The damage to the industrial and commercial sectors and to the infrastructure totalled some 30% higher than direct military costs. The material on displaced persons, Pg. 23 et seq., constitutes eloquent testimony of the hardship which results.

nations. The hardships suffered by the Salvadoran population as a result of poverty and underdevelopment would be cause for sympathy, but would not in themselves require particular humanitarian consideration in the formulation of U.S. policy. However, these hardships are exacerbated by the erosion and destruction of whatever limited economic equilibrium may have resulted from the stability and predictability of a peacetime economy. As a result, activity and survival have for large parts of the Salvadoran civilian population become impossible, whereas before they had been merely difficult. Furthermore, such a deterioration is the result not of avoidable economic factors but rather of the violence and instability which in themselves pose compelling humanitarian problems.

Salvadorans in the United States

Estimates of the Salvadoran population in the United States range from 300,000 to 500,000. A number of these arrived in the U.S. before the onset of the Salvadoran civil war in 1980. At least a half have arrived since. The statistics maintained by the Immigration & Naturalization Service (INS) indicate that in the period October 1982 to March 1983, 2771 Salvadorans were apprehended at the U.S.-Mexico border. Approximately 25,000 have applied for asylum. Only a very small number are eligible to regularize their status through labor certification or sponsorship by close family members.

In fiscal year 1983, 3175 Salvadorans were sent back from the U.S. to El Salvador under formal orders of deportation.

Approximately 1627 Salvadorans agreed to depart without such formal orders, in the same period. In the twelve months preceding May 27, 1983 deportation proceedings were begun against approximately 10,000 Salvadorans. 976 Salvadorans were detained on that date, an increase from 516 on December 24, 1982.*/ Between October 1982 and January 1984, 154 Salvadorans were granted asylum by the INS, while 5865 were denied it.**/

The great majority of the Salvadoran population in the United States lives here without legal status. While all undocumented persons live in fear of deportation, undocumented Salvadorans have, as is shown below, particularly compelling reasons, in the civil war, for fearing deportation. They are therefore particularly afraid of dealing with the authorities, and are even less willing than other undocumented aliens to report crimes, file labor conditions complaints or seek necessary health care.

The Salvadorans who have come to the United States have generally entered without inspection. Some of these illegal entrants have left El Salvador because they feared individual persecution by the government on account of race, religion, political opinion, nationality, or membership in a social group. Under U.S. law this group of persons is eligible for "asylum", although many of these are deterred from applying for asylum by the low likelihood of success.

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*/ All figures, except estimates of total population, are provided by the U.S. Immigration & Naturalization Service.

**/ Note also that from June-December 1982, the last period for which figures broken down by nationality were maintained for disposition of asylum applications by Immigration Judges, out of 157 Salvadoran asylum applications decided, only 13 were granted.

Others are afraid to return to El Salvador not because of such an individualized fear of persecution but rather because of war conditions and social dislocation of a pervasive and most severe kind. It is precisely for the benefit of such persons, i.e. those who are unlikely to meet the exacting standards of eligibility for asylum or who wish ultimately to return home, that "extended voluntary departure" (EVD) has been and should now be used.

Extended Voluntary Departure

Consideration of the intolerable conditions in El Salvador has led religious, community, labor and legal service organizations to ask this Administration to decide as a matter of policy that Salvadorans without immigration papers who are picked up in the United States not be returned to El Salvador. The simple rationale for this request is that people may not conscionably be returned to such conditions as exist there. Such a policy would be implemented by granting a status known as "extended voluntary departure" (EVD) to Salvadorans. This status has been used in the past to allow citizens of countries which are experiencing dangerous conditions to remain in the U.S. temporarily and to obtain permission to work. Granted at the discretion of the Attorney General, upon the recommendation of the Secretary of State, extended voluntary departure status is revoked once hostilities have ended in the alien's country and safety has been restored.

EVD is presently enjoyed by Ethiopians, Poles, Lebanese, Ugandans and Afghanis. In the past, it has been enjoyed by groups as diverse as Chileans escaping both the Allende and the Pinochet regimes, and Cubans escaping the Castro regime. Persons who today fear being returned to El Salvador have at least as much to fear as these groups. However, the Administration has clearly and forcefully declined to extend this protection to Salvadorans.

In April, 1981, Senator Kennedy requested the Secretary of State to recommend to the Attorney General that Salvadorans be granted EVD. The Administration responded that applications for asylum would protect those with a genuine fear of returning to El Salvador, and that in its opinion, El Salvador had not suffered the same widespread fighting, destruction and breakdown of public services and order as had Nicaragua, Lebanon or Uganda, and that persons sent back by the U.S. would have no more to fear than persons who had never left.[*]

In September 1981, the United States Catholic Conference recommended extended voluntary departure for Salvadorans. On October 3, 1981, the Archbishop of Washington in a letter to the Attorney General, reiterated this recommendation. He reported that Jose Napoleon Duarte, who was at that time president of El Salvador, had privately urged precisely such a step.

On April 9, 1982, Nobel Peace Laureate, Adolfo Perez Esquivel, renewed the request in a letter to the President. In a reply dated April 27, 1982, Elliott Abrams,

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[*] 128 Cong. Record S831

Assistant Secretary of State for Human Rights and Humanitarian Affairs, indicated that a new set of considerations formed the basis for the refusal to grant extended voluntary departure. These considerations remain active in present policy.

Mr. Abrams suggested in his reply to Sr. Perez Esquivel that Salvadorans who had fled El Salvador had found generous offers of safe haven in countries closer to El Salvador, such as Honduras. Thus, the U.S. was not the only country of refuge for these persons. By implication, therefore, persons who had continued travelling to the U.S. must have done so for reasons other than the search for safety. Furthermore, added Mr. Abrams, Salvadorans in the United States are eligible for asylum in the U.S. if they can establish a well-founded fear of persecution. Presumably this was considered a sufficient and effective expedient for those who had a legitimate fear for their safety in El Salvador.

In 1983, the Administration has continued to receive requests from various quarters that extended voluntary departure be granted to Salvadorans. Eighty-eight members of the House of Representatives have addressed a letter to that effect to the Secretary of State. Many individual senators have done likewise. The United States Catholic Conference has reiterated its position and renewed its plea. The Immigration & Refugee Program of the Church World Service and the American Council of Voluntary Agencies have both passed resolutions to this effect.

Finally, in the State Department Reauthorization as enacted in late 1983, the Congress passed a non-binding resolution stating that Salvadorans should not be deported to El Salvador until conditions in that country permit them to safely reside there. The Congress found that the return of Salvadorans to El Salvador is "irreparably harming the foreign policy image of the United States" and that the fighting there is "potentially creating life-threatening situations for innocent[s]." The Immigration Reform Bill as reported by the House Judiciary Committee contains language which expresses the sense of the Congress that Salvadorans be granted extended voluntary departure.

A further elaboration of the Administration's position occurred in a Department of State press guidance dated May 31, 1983, which announced that extended voluntary departure was not considered appropriate for Salvadorans for the following reasons. First, it would encourage illegal immigration from El Salvador, allegedly a long-standing source of substantial illegal immigration. Second, Salvadorans in the U.S. had passed through other countries where they could have obtained refuge. Third, foreign policy and immigration policy concerns were factors to be considered alongside humanitarian considerations. On June 7, 1983, Assistant Secretary Abrams had an opportunity to elaborate upon these considerations, when he answered questions before the House Subcommittee on Immigration, Refugees and International Law, during hearings on the reauthorization of the Refugee Act.

He alleged that El Salvador had, for economic reasons, exported its population to the U.S. in the 1960's and 1970's. Only some of the present population were political refugees,while the rest were economic migrants. The first would be picked out for protection by the asylum process; the latter, by implication, undeserving of any protection at all.[*] He reiterated the Administration's view that allowing Salvadorans already in the U.S. to remain would encourage further illegal immigration. Mr. Abrams noted that Salvadorans have to come through Mexico to arrive in the U.S. His concluding remarks suggest that persons who have a genuine reason to fear return to El Salvador have nothing further to fear because they may apply for asylum in the U.S.[**]

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[*] This presents a sharp contrast to the approach of the U.N. High Commissioner for Refugees. (Letter of May 29, 1981 to the Chairman of the Standing Conference of Canadian Organizations Concerned for Refugees):

> "As you are aware, in situations of large-scale influx it is frequently impracticable to resort to an individual determination of refugee status due to the large numbers involved and also to the frequent necessity to provide assistance and protection on an emergency basis. In order to overcome these various difficulties, recourse has frequently been had to what is known as '*prima facie* group determination'. This is based on the assumption that in view of the conditions prevailing in the country of origin, all members of the group should, in the absence of clear indications to the contrary, be regarded as refugees.
>
> As regards person who have left Salvador after the outbreak of the Civil War early in 1980, we considered that the above-mentioned conditions are indeed fulfilled."

[**] This basic position is confirmed as the Administration's definitive view of the matter by the following recent statements:

Elliot Abrams, "Diluting Compassion", *New York Times*, August 5, 1983.

Letter from Attorney General to Congresspersons signatory to letter requesting extended voluntary departure for Salvadoran nationals. *July 19, 1983.*

(footnote continued on next page)

The material presented below constitutes substantial public record information which indicates that conditions in El Salvador are as serious as they are in those countries, (e.g. Ethiopia, Poland) whose nationals presently enjoy EVD status. Appendix II also presents a substantial record indicating that conditions for Salvadorans in Honduras, Guatemala and Mexico are highly threatening to their personal security, and that Salvadorans remain susceptible to involuntary repatriation. The text of the paper attempts to refute the Administration's reasons for declining to grant extended voluntary departure, suggesting that sound foreign and immigration policy require such a step, and that humanitarian considerations leave no alternative.

(footnote continued from previous page)

Letter of June 23, 1983 from Secretary of State to Attorney General, recommending against granting of extended voluntary departure to Salvadorans.

Arguments Advanced by the Administration.

The Administration has argued that:

1. Conditions in El Salvador are not sufficiently serious to warrant extended voluntary departure status for Salvadorans in the U.S.

2. Many Salvadorans have come to the U.S. for economic reasons rather than out of fear.

3. Granting extended voluntary departure to Salvadorans will encourage new illegal immigration.

4. Salvadorans could have and may in the future find refuge in countries close to home.

5. Persons with a genuine fear may apply for asylum.

6. Foreign policy and immigration policy considerations militate against the granting of extended voluntary departure to Salvadorans.

7. Persons returned by the U.S. will be in no greater danger than persons who never left.

8. Present U.S. initiatives, *i.e.* assistance to the Salvadoran people with legal reform, medical assistance and economic and agrarian reform, are sufficient.[*]

9. Perhaps the most important consideration from the Administration's point of view is one which remains unstated as an argument: that Salvadorans granted extended voluntary departure will seek to remain permanently.

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[*] A relatively new argument, this appears in the letter of June 23, 1983 from the Secretary of State to the Attorney General.

Are Conditions in El Salvador Unsafe for Civilians?[*]

Several humanitarian concerns predominate in El Salvador today:

* Indiscriminate bombing by military forces of both sides and other incidental terrors of being "caught in the cross fire."

*Hasty inferences of sympathy with the guerrillas or the government forces usually followed by "execution."

*Almost total absence of medical care and food supplies.

*The vulnerability of displaced persons in temporary shelters.

*Inability of the civilian sector of the government to control the excesses and human rights abuses of its security forces.

*Torture.

*Murders.

*Abduction and disappearances.

*Inability of the judicial system to provide meaningful protection against violations of human rights, including intimidation of court officers.

*Repression of church workers, refugee relief workers, and human rights monitors.

*Repression of opposition politicians and professionals.

*Breakdown of economic and social infrastructure rendering life insupportable.

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[*] The copiousness of the information on this issue requires that a summary be presented here. The sources cited at Appendix I should be consulted for a more complete documentation of the analysis advanced here.

Amnesty International, the scrupulous and widely respected human rights monitoring organization, believes that:

> "[a]ll branches of the security forces, including paramilitary civilian defense groups under military control and newly trained counter-insurgency batallions, were involved in a systematic and widespread program of torture, abduction and individual and mass killings of men, women and children. The victims of government violence included people suspected of opposition to the authorities from all sectors of society. They also included residents in areas targeted for security operations whose killing or mutilation appeared to have been completely arbitrary. Amnesty International was also investigating the reasons for arrest of the several hundred political prisoners held in El Salvador, and their conditions of imprisonment.
>
> These human rights violations occurred at a time of civil conflict and reports were received of violent crimes against individuals by opposition forces. In appeals to the government Amnesty International emphasized that even in time of war governments may not arbitrarily deprive people of life or torture them."[*]

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[*] Amnesty International Report, 1983. Pg. 132.

It should be noted that the copious factual record of terror and insecurity in El Salvador has been compiled in the face of extreme constraints against information gathering. Some of these constraints on information gathering are, of course, merely an incidental result of the conduct of a civil war and the consequent danger in travel. Others are posed by the particular violence directed against journalists[*], human rights monitors and relief workers.[**]

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[*] Salvador is Death on Journalists, Miami Herald, February 1983; Body from El Salvador Identified as Writer's, New York Times, February 26, 1983. See also Washington Post, July 21, 1983 Pg. C1.

[**] Report on Human Rights in El Salvador, Americas Watch Committee and American Civil Liberties Union; 3rd Supplement, July 19 1983, Pg. 13. (hereinafter "Americas Watch/ACLU, 3rd Supplement").

The Archdiocese of San Salvador, the most credible and widely respected source of information on human rights in El Salvador has not established any office outside of the city of San Salvador because "any office elsewhere would be destroyed immediately." */ Hence, this already copious record probably only partially reflects the true scale of terror in El Salvador. **/

In any case, a summary of the information sufficiently reflects the appalling terror which characterizes life in El Salvador today. Civilians suffer in what Col. John D. Waghelstein, Commander of the U.S. military group in El Salvador, has referred to recently as the "ambience" of violence in that country.***/ This reflects war, political violence, and their inevitable spawn, the breakdown of law and order. Civilians are in immediate danger during both the counter-insurgency operations of the government and the guerrilla campaigns.****/

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*/ Americas Watch/ACLU, 3rd Supplement, Pg. 13.

**/ All sources, including official U.S. government reports, acknowledge that the reporting process for numbers of civilian deaths is severely affected by misinformation. See Report on the Situation in El Salvador With Respect to the Subjects covered in S728(d) of P.L. 97-113. January 21, 1983, Pg. 5 (hereinafter "Certification Report"); Country Reports on Human Rights Practices, 1982, Department of State, Page 493; The Situation of Human Rights in El Salvador, (Final Report, U.N. Human Rights Commission), January 1983, Page 25.

***/ Washington Post, June 29, 1983.

****/ New York Times, July 9, 1983, Pg. 2.

As recently as September 4, 1983, one bombardment of the city of San Miguel killed or wounded 300 people "in what residents and rebels called the strongest mortar barrage fired by the insurgents in the four year civil war."[*] This is typical. Less than two weeks earlier a guerrilla offensive had left the "western half" of El Salvador "paralyzed."[**] The Americas Watch Committee and American Civil Liberties Union have observed that "the manner in which the armed forces of El Salvador have used Cessna A37B Dragonfly aircraft indicates that they are not making an effort to minimize the harm to civilians."[***] A typical example is the following account of the bombardment of a group which "struggled up the steep embankment to the village of Tenange, a few miles south of Pepeishtenango. A37 and Ouragen attack jets hammered them for hours, a spectacle we witnessed from the vantage of our hilltop. The bombardment from strafing killed or wounded roughly one hundred elderly, women and children, dazed survivors later said."[****]

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[*] Rebels Bombard Salvadoran City, Washington Post, September 5, 1983, Pg. A24.

[**] Rebels Destroy Power Lines; Half of Country Paralyzed, Washington Post, August 27, 1983.

[***] Americas Watch/ACLU, 3rd Supplement, Pg. 59.

[****] Series of articles by Michael J. Luhan, Dallas Morning News, March 9-13, 1983.

The Department of State Country Report on the World Refugee Situation for FY 1983 notes that "[r]ecent civil strife has caused a major internal displacement of people and substantial expansion of the refugee outflow", and that "[f]ighting, at times intense, between the insurgents and government forces continues."

The Secretary of State has himself concluded that, "Political violence against non-combatants remains a serious problem" and that "little progress has yet been made in rebuilding a judicial system free from intimidation or coercion."*/ The Archdiocese of San Salvador tabulates 5,132 reported murders of civilians by government forces and paramilitary groups allied to government forces during 1983. **/ In the same period 535 persons have disappeared following violent abductions by the security forces. ***/

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*/ Testimony of Secretary of State George P. Schultz before the Foreign Operations Subcommittee, House Appropriations Committee, March 16, 1983.

**/ Americas Watch/ACLU, 4th Supplement, Pp. 7, 8.

***/ Id. at Pg. 14.

Meanwhile, the guerrillas have been responsible for 67 reported deaths of civilians, as a result of executions of suspected collaborators with repression, or in the course of attempts to stop buses on the highways.*/

It is in this "hair-trigger" context that ready inferences of "subversive" or pro-government sympathy are drawn. Many Salvadorans must perforce run these risks in order to survive, whether it be to work or to obtain basic supplies. As travelers, they must also of course encounter the dangers of military contention over bridges, and other similar occurrences.**/ The critical problem is the failure or inability of the government to control those of its armed forces who act on the basis of such "hair-trigger" suspicions. Officers implicated in massacres are promoted or reassigned to equally sensitive posts,***/ while the relatives of victims are arrested! ****/ The Administration has noted that "excesses by some regular and paramilitary forces continue to occur".*****/

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*/ Americas Watch/ACLU, 3rd. Supplement, Pg. 65. See also Terrorists Kidnap 15 Youths, El Diario de Hoy, San Salvador, June 23, 1983.

**/ Salvadoran Troops Press Offensive Against Rebels, New York Times, June 26 1983.

***/ El Salvador Calms Army Insurrection, Wall Street Journal, January 14, 1983; Salvadoran Tied to Killings Now in Intelligence Job, New York Times, July 9, 1983, Pg. 2.

****/ Massacre Probe Shows Weaknesses of Salvadoran Justice System, Washington Post, July 7, 1983, Pg. A19.

*****/ Certification Report, January 1983, Pg. 10.

Amnesty International, reporting systematic mass killings and torture by government forces in El Salvador, has published catalogues of atrocities. Reported by eyewitnesses were decapitation of unarmed civilians, mutilations, and the machine-gunning of women and children by military helicopters.*/

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*/ Amnesty International Release, March 1982.

A description of a recent massacre (Americas Watch/ACLU, 3rd Supplement, Pg. 18) indicates the character of the problem:

"One witness was Fermin Garcia Guardado, a 51 year old widower, a farmer, and a member of the local cooperative (ACOINS) and a member of ANIS. He says:

> On Tuesday, February 22, 1983 about 200 uniformed soldiers from the Batallon Jaguar of the garrison of Sonsonate arrived at the village Las Hojas. In this village works the cooperative ACOINS, and the soldiers, or rather one of them who seemed to be the boss of the "action" had a list of most of the names of members of the cooperative. The soldiers were accompanied by three persons with their faces covered which seemed to be in order not to be recognized and these three persons pointed out the people to be captured. They also had uniforms on to be confused with the soldiers. Despite that, some members of the cooperative were able to identify the people with the covered faces as Mario Perez, member of the Civil Defense; Juan Sermeno, also member of the Civil Defense; and Marcial Caceres, village commander. These three people had a personal conflict with the cooperative because the cooperative people resisted abuses they used to commit. The people with the covered faces used to let their cattle on to the cooperative's ploughlands, broke fences and sexually abused their daughters. When they understood that we had united together to defend ourselves from such obscenities ["estas groserias"] they started to hate us and that is why they accused us of

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> being subversives, communists. Thus they captured Juan Bautista Martir, 75; Marcelino Sanchez Viscarra, 80; Hector Manuel Marquez, 60; Benito Perez Zetino, 40; Gerardo Cruz Reyes, 45; and my son, Jose Guido Garcia, 20, who all were taken to some place south from the cooperative. At 10 a.m. the same day we went to the Garrison of the Army in Sonsonate to find out the reason for the capture. The commander of the Garrison told us; "we have no report" and that "they would go to look for them and if they find them they would let us know." So we left and went to look for the bodies, because we believed they were already killed since chance so ordained it that when he was speaking to us, the three trucks in which the soldiers had come to our village arrived at the Garrison and there was none of the captured in them, only one of the men with covered faces was with them. So we left to look for the corpses and we found them one kilometer south from the cooperative, at the bank of the river Cuyapa. All of them had their heads destroyed by shots and their thumbs twisted, some to the back, others to the front. Among them was my son I mentioned earlier. We found the bodies at 1 p.m. and besides the corpses of the members of the cooperative, also there were bodies of 10 unknown to us between 20 and 40 years old. So we went back to the garrison to tell the commander that we had already found the bodies and after hearing this he told us that in the report he'd received, only four people were killed, all of them of the last name Mejia. In that moment we said: excuse us but the people killed were our friends and then *the commander told us that if they were killed, they were killed for being subversives.*" (emphasis added)

The scale of the decay of ethical constraints in El Salvador is suggested, in one instance, by information suggesting that teenagers aged fifteen or sixteen are being forcibly conscripted into the armed forces, and that they represent a significant proportion of the troops presently undergoing training.*/ Or one may look to a sampling of news headlines going back for a year and a half for a litany of honors: "Salvadoran Teenagers Dragged from Homes"**/; "Salvadoran Peasants Say Army Killed Hundreds in Community"***/; "Security Forces on Amphetamines"****/.

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*/ Green Beret Training Base in Honduras Looks Just Like Nam, Washington Post, September 5, 1983, Pg. A19.; Green Berets Start Training of Salvadorans, Hondurans, Washington Times, July 1, 1983, Pg. 1; Refugee affidavits on file at the Political Asylum Project of the American Civil Liberties Union of the National Capital Area, 122 Maryland Ave., N.E., Washington, D.C. 20002.

**/ Washington Post, March 1, 1982.

***/ Washington Post, January 27, 1982.

****/ El Salvador Report, October/November, 1981.

Torture of prisoners has been particularly common. "Torture by elements of the security forces . . . does occur . . . . There is evidence that . . . the use of torture has been prolonged and extreme".[*/] 496 instances of torture were reported by the Rapporteur to the U.N. Human Rights Commission between May 1982 and January 1983. Prisoners are crowded into very small cells, in deplorable sanitary conditions, and lack medicine and proper medical care.[**/] A U.S. medical delegation which visited El Salvador in January 1983 heard reports, "corroborated in certain cases by physical examination," of "rape, sexual violation, beatings, electric shocks, burnings, hanging by the wrists. . ." and threats against their person or family members.[***/]

[*/] Country Reports on Human Rights Practices, 1982, Department of State, Pg. 495.

[**/] The Situation of Human Rights in El Salvador, U.N. Human Rights Commission, Pg. 33.

[***/] Report of a Medical Fact-Finding Mission to El Salvador, 11-15 January 1983, American Association for the Advancement of Science, Institute of Medicine of the National Academy of Sciences, National Academy of Sciences, et. al. (hereinafter "AAAS").

Especially acute are the sufferings of 500,000 persons[*] who are displaced within El Salvador, and seek uncertain shelter at church-run displaced person camps. Only 90,000 of these are assisted by the Archdiocese.[**] Amnesty International reports that uniformed Salvadoran soldiers deliberately mutilated displaced people of all ages and machine-gunned fleeing women and children.[***] Displaced people may be abducted from the camps and/or killed by the Salvadoran Security forces.*/

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[*] *El Salvador: Refugees in Crisis*, Bulletin of SHARE - Salvadoran Humanitarian Aid, Research, and Education Foundation, (hereinafter "*Share Bulletin*"), August/September 1983, Pg. 2.

[**] *Id*. at Pg. 3.

[***] *Amnesty International Newsletter*, March 1982. That such incidents are not infrequent is indicated by the account of an incident which occurred on February 16 and 17, 1981. On those dates, truckloads of soldiers entered the displaced persons center of Domus Maria in Mejicanos on three separate occasions. They beat the center's occupants, stole medicine and food, and issued death threats. *Report on Human Rights in El Salvador*, Americas Watch/ACLU, January 1982, Pp. 163-164.

Between August 20, 1980, and March 17, 1981, *Socorro Juridico* documented 67 separate instances of killings, detentions, robberies, encirclements, threats, searches and military occupations of refugee centers by National Police, Army, Treasury Police, civilian agents or combined forces. *Ibid*.

It must be noted that Salvadorans who might be repatriated from the United States would be displaced persons upon arrival. As such they would be particularly vulnerable to random or arbitrary violence. Widespread civil war inevitably poses extreme dangers and hardship for travellers. Thus most repatriated Salvadorans would be unlikely to be able to travel to the relative safety of their families and friends.**/

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*/ A recent U.S. delegation reports that "The director of one of the refugee camps informed us that he dare not care for children beyond the age of 10 years because older children are forcibly taken from the camps by the Salvadoran army for induction into the military." Report of the Public Health Delegation of Inquiry, American Public Health Association, January 1983. (hereinafter "APHA") Pg. 7. Security forces are reported to have removed people from [the Archbishop's displaced persons centers] and summarily executed them. Amnesty International Newsletter, March 1982, Pg. 3.

**/ The following is a series of accounts of the conditions in which displaced persons live in El Salvador:

1. [h]ere most of them remain, [in the church-run refuge center near San Vicente] either afraid to return or . . . empty of hope." "The guerrillas took everything. There's nothing left to go back to." "In three church-run centers near the provincial capital of San Vicente, there are about 1,500 refugees who say that left-wing guerrilla terrorism has ruined their lives" . . . even though the Army has declared the region clear of rebels, 'we can't go back there. . . . They took our clothes, the pots and pans even, and they told us never to come back. I was scared.'" War's Flotsam, Washington Post, Feb. 26, 1983.

2. Lutheran Council representative reports that displaced persons in camp near San Salvador fled bombing attacks on their villages. "Civilian bombing widespread", Share Bulletin, March/April, 1983.

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As of August 31, 1982, 226,744 persons were displaced from their residences according to an estimate of the National Committee for Aid to Displaced Persons.*/ Since then, many more have been displaced.**/

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3. Two women were abducted in 1982 from a displaced persons center in Santa Ana by the Salvadoran military, despite the efforts of local relief officials to stop them. The two women have disappeared. (Personal communication from free-lance journalist Richard Reinhart, who reported on his interviews with relief workers and refugees in El Salvador's displaced persons camps, November, 1982.)

4. Reports of Salvadoran troops operating openly with ORDEN, abducting and shooting peasants, burning crops and raiding villages. Displaced persons arrive at Archdiocese of San Salvador; within five days, 800 displaced persons arrived from areas hit by the violence. Amnesty International Newsletter, March 1982, Pg. 3.

5. Only limited assistance available for displaced persons in northern Morazan due to heavy military activity; San Vicente and Cabanas, central El Salvador: relief carried out for 16,230 displaced persons; International Committee of the Red Cross telex #15, April 26, 1983. (Covers January 3-March 31, 1983).

6. San Roque refugees center, located in a small church on the outskirts of San Salvador: approximately 260 displaced persons housed in the basement of the church. (Sanitary facilities are minimal, no regular visits by doctors). Population is mainly women, elderly men and small children. Ibid.

7. San Jose de la Montana center, in a soccer field adjoining main seminary of the Archbishop of San Salvador: 1,000 displaced persons. (Few medical supplies, not enough medical personnel, poor nutrition for camp inhabitants) Ibid.

*/ Report on the Situation of Human Rights in El Salvador, U.N. Human Rights Commission, January 20, 1983.

**/ Archbishop Rivera y Damas cites a figure of 100,000 as the number displaced in recent weeks as a result of fighting in eastern departments. Foreign Broadcast Information Service, (hereinafter "FBIS") May 22, 1983.

Volunteers who attempt to alleviate the plight of refugees in El Salvador have been subject to constant harassment, torture, and murder, as indicated by the following account:

> "In a statement published in the local papers today the Salvadoran Army accused the Green Cross [humanitarian relief organization inside El Salvador] of collaborating with the guerrillas . . . they threatened to shoot at the volunteers if it happened again.*/

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*/ *Share Bulletin*, Jan/Feb 1983

Salvadoran refugee worker is taken off a bus by the Death Squad and assassinated. Another refugee worker from the same camp is harassed at her home by men in civilian clothes and flees El Salvador as a refugee. *Ibid*.

See also, the following accounts:

1. Salvadoran Green Cross volunteer is brutally tortured by the security police. He is stretched on a rotating wheel, hung up by his hands, and forced to swallow lime. "Overcoming the Doubts", *Time*, August 9, 1982.

2. The Armed Forces Press Committee in San Salvador reports that a group of guerrillas machinegunned a Red Cross ambulance when it was travelling through La Pedrera in Usulutan. *El Diario de Hoy*, San Salvador May 21, 1983.

3. Green Cross medical personnel are perceived as supplying and aiding the guerrillas; some persons are singled out for repression; The director of the Green Cross, Juan Francisco Zamora, reported that in 1982, six of the organization's staff were killed, allegedly by security forces; In May, 1982, Zamora himself was detained for several weeks; On April 25, 1982, relief worker Estanislao Sanchez was abducted and detained in Mariona prison; The International Committee of the Red Cross has reported harassment directed at its staff. Violence aimed at ICRC personnel in Morazan province in 1982 caused the organization to reduce its relief programs in that area. AAAS, *supra*, *passim*.

4. "Numerous health workers have been killed by the military or right-wing paramilitary death squads, been imprisoned, or have left El Salvador because of the climate of terror generated by the government." APHA, *supra*.

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The Inter-American Commission on Human Rights notes "with concern" that the offices of human rights promotion and protection agencies have been stormed and sacked by security forces, and many of their members forced to seek refuge in other countries.*/

A typical case is that of Dr. Angel Ibarra, the director of medical services in the displaced persons camps operated by the Lutheran Synod of El Salvador. He was abducted by the National Police on April 26, 1983 along with Rev. Medardo Gomez, the head of the Lutheran church in El Salvador. They were abducted on the road to the San Salvador international airport after taking two visitors from Norway there. In the facilities of the National Police,

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5. Wilfred Amaya, regional director for CARITAS relief organization in the Archdiocese of San Salvador, abducted and tortured by armed men, some in military, some in civilian clothes on May 4, 1983. Washington Office on Latin America Alert, May 5, 1983. Americas Watch/ACLU, 3rd Supplement, Pg. 48.

6. Pedro Posada - disappeared on December 9, 1982. He was recently assigned to work on refugee matters with the Social Secretariat of the Archdiocese. When he disappeared, he was en route from Chalatenango where he was retrieving papers for refugees in the Archdiocese camps in San Salvador. Report on Human Rights in El Salvador, Americas Watch/ACLU, 2nd Supplement, January 20, 1983, Pg. 47.

7. Medardo Gomez - President of Lutheran Synod in El Salvador; Pastor of Lutheran La Resurrection Church in San Salvador; relief worker with Lutheran "Faith and Hope" Project aiding several hundred displaced persons in vicinity of capital. Abducted on April 27, 1983, by group of armed men near International Airport in San Salvador. Detained by National Police for two days; subsequently released without charge. El Salvador Update: Violations of Human Rights Directed Against Health Professionals and Health Workers/ State of Public Health and Human Services. Report of International League for Human Rights, New York, July 19, 1983.

*/ Annual Report of the Inter-American Commision on Human Rights (OAS), September 1982, Pg. 116.

Dr. Ibarra was tortured by electric shocks to his feet and eardrums, his shoulder was dislocated and he apparently also suffered internal injuries.*/ Recent accounts confirm the frequency and pervasiveness of such occurrences. A recent report states that:

> The delegation witnessed the personal courage and commitment of the Archdiocese staff, who daily risk their lives to continue their work with the refugees. Numerous times during our visit, staff members were harassed by paramilitary groups who seem to think that even humanitarian work is subversive.
>
> The day after our delegation left El Salvador, the military abducted a doctor and her assistant leaving a refugee camp and the doctor's family was later taken from their home. According to the latest reports, all eight are now in prison.**/

Little protection is offered by the judicial system in El Salvador. The Administration has noted that: "The criminal justice system remains flawed . . . [and] has not functioned effectively, particularly in prosecuting violent crimes associated with acts of terrorism from the violent right and left," and that "the serious problems of the criminal justice system include . . . acts of terrorism against judicial personnel and facilities, threats and other intimidation."***/ The discriminatory and ineffective operation of this system is epitomized in the fate of an inquiry into a massacre at Las Hojas.****/ Other serious problems are inadequate police investigations, and corruption of judges and juries."[*] Of about 3650 prisoners in the Salvadoran penal system, fewer than 300 have been convicted. The rest are awaiting trial.[**]

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*/ Americas Watch/ACLU, 3rd Supplement, Pg. 47.

**/ Share Bulletin, August/September 1983, Pg. 6.

***/ Certification Report, January 1983, Pg. 7.

****/ Massacre Probe Shows Weaknesses of Salvadoran Justice System, Washington Post, July 7, 1983, Pg. A19. This account details the victimization of relatives who brought complaints regarding human rights violations by security forces.

Finally, even a cursory glance at the breakdown of the basic framework of social and economic life reveals the scale of the hardship suffered by all Salvadorans. The U.S. Embassy in El Salvador recently published an evaluation of the damages caused in El Salvador between 1979 and 1982. The report shows clearly the extensive impact of the civil war. It provides, *inter alia*, the following information:

TOTAL DIRECT COSTS OF THE WAR
[Millions of dollars]

1.	Lost agricultural production	235.2
2.	Processing plants and warehouses	14.8
3.	Industrial and commercial sectors	97.8
4.	Infrastructure	98.1
5.	Defense	150.5
6.	Miscellaneous	0.4
	TOTAL	596.8[***]

The drastic effects of this on elements of infrastructure, such as sanitation, medical care or food supply, are suggested herein by the information concerning displaced persons.

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[*] *Country Reports on Human Rights Practices, 1982*, Department of State, Pg. 497.

[**] *The Situation of Human Rights in El Salvador*, U.N. Human Rights Commission, Pp. 38-41.

[***] *See also*, *Washington Post* June 28, 1983: "Hinton and Kirkpatrick said continued fighting in El Salvador is causing steady deterioration of the economy, frightening capital out of the country and damaging roads, bridges, power lines, and farm land. 'It gets worse every day.' Hinton said". The Salvadoran press offers frequent and graphic instances of such matters. *E.g.*, Three Departments Without Train Service, *El Diario de Hoy*, San Salvador, May 29, 1983; AEAS Denounces Destruction of 800 Buses, *Ibid*.

Indeed, accounts of shortages of medical supplies and food indicate the extent to which human life has become insupportable in El Salvador. A telex of December 17, 1982, from the Human Rights Commission of El Salvador reports that 5,000 Salvadoran refugees in Sabanetas (Department of Morazan) were starving to death after a group of persons trying to bring them food had been detained by the army.*/

A delegation of the American Public Health Association reports that, "the health and sanitary conditions of refugees living in San Salvador are appalling."**/ The delegation reports that, "the widespread violence as a result of the civil war has made it difficult, if not impossible, to safeguard medical supplies and to deliver primary health care to the general population, especially in rural areas of the country."***/ Violations of human rights directed at health workers have created a climate of fear: physicians and other health professionals are reluctant to treat certain patients, particularly the poor, for fear they will be for fear they will be associated with 'subversion.'" [*/] The same delegation reports that, "we found severe malnutrition, skin diseases, pediculosis, diarrhea, and whooping cough . . . Virtually no medical services other than inoculations were available to the residents of the refugee camps."[**/]

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*/ The Situation of Human Rights in El Salvador, U.N. Human Rights Commission, supra.

**/ APHA, supra, Pg. 4. "Medical care delivery in collapse. . . virtually complete breakdown" id. at Pp. 2, 8.

***/ An example of the scale of the problem is the Refugion San Roque, the displaced persons center in San Salvador, where no physicians or health workers are available on a weekly or daily basis; very few medical supplies are available, except choloramphenicol, a highly toxic antibiotic rarely used in the U.S.; and medical care at the clinic is provided by a refugee with no medical training. Ibid.

A medical fact-finding mission to El Salvador finds that, " . . . the country as a whole is experiencing a rise in infant mortality, increased diseases such as measles, diphtheria, and polio."[***/]

Recognizing that the public record refutes their conclusion that conditions in El Salvador are not as severe as in Poland, Lebanon or Uganda, the Administration has elaborated a subtler argument. The Secretary of State's letter of June 23, 1983, to the Attorney General notes that civil strife is not prevalent throughout all regions of El Salvador. It then goes on to add that the extent of civil unrest alone does not determine the Department of State's view toward the granting of EVD to citizens of a particular country.

[*/] Ibid. See also Salvadoran Health Abuse Reported, Washington Post, 21 January 1983: "There is a terrible and conspicuous lack of humanitarian services from the international community, including the United States. The nation is suffering 'a catastrophic health emergency', and drugs and anesthetics are scarce or nonexistent in San Salvador hospitals, according to Dr. Carola Eisenberg, Dean of Students at Harvard Medical School. 'I've been in and out of Latin America and Africa for 30 years,' Sanbury said, 'and I've never seen people in such appalling physical condition except in hospitals in chronic famine areas.' [referring to his visit to a war refugee camp in El Salvador.]"

[**/] APHA, supra, Pg. 5.

[***/] AAAS, supra, Pg. 32.

The latter contention may or may not be an accurate reflection of standard State Department policy. It is, however, rendered insignificant insofar as the following discussion demonstrates that *all* relevant considerations, humanitarian or pragmatic, suggest the clear advisability of granting extended voluntary departure to Salvadorans in the U.S.

The former observation, that not all regions of El Salvador are suffering civil strife, is less than compelling under close scrutiny.

It must be noted that El Salvador is a country equal in size to the State of Maryland. The patterns of danger outlined above are sufficiently pervasive and repetitive that one may anticipate their occurrence almost anywhere in the country at any given moment. Half the country at a stroke finds itself plunged into a crisis situation. A recent news account conveys the scope of this nationwide vulnerability:

> "Leftist guerrillas blew up several strategically located power lines, leaving the western half of El Salvador paralyzed today.
>
> The areas affected included parts of the capital and San Salvador province, northern Chalatenango, Ahuachapan, Sonsonate, Santa Ana and La Libertad.
>
> Communications were either cut or severely delayed, plants stopped working and scores of towns were without electricity."[*]

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[*] Rebels Destroy Lines; Half of Country Paralyzed, *Washington Post*, August 27, 1983. On the pervasiveness of the violence, *see also* Rebels Destroy Bridges in Usulutan, *Excelsior*, Mexico, May 28, 1983; Government Counter Offensive Begins in Usulutan and La Union, *El Dia*, Mexico, December 2, 1982.

The material on danger to displaced persons indicates quite clearly that threats to personal security are not limited to regions experiencing active hostilities.

What is most notable, however, is the fact that never before has this or any other Administration engaged in a regional analysis of levels of violence in a country before granting extended voluntary departure to citizens of that country. The practical difficulties of doing so in any reliable or predictable way are obvious.

The Economic Motive for Migration

The original motive for immigration to the U.S. is not relevant to the standards for granting extended voluntary departure. Extended voluntary departure has in the past provided humanitarian relief to precisely the type of population represented by the Salvadorans. That is to say, that it has been granted to an endangered nationality, regardless of the original reason for an individual's entry into the U.S.

Indeed, under the clear standards articulated for extended voluntary departure, the motive for migration can only be relevant if it is assumed that a person who originally entered the U.S. in search of economic improvement therefore now has nothing to fear upon repatriation. This in turn requires an analysis which sees no pervasive and generalized danger to civilians in El Salvador. Such an analysis is impossible with respect to conditions in El Salvador today.

Extended voluntary departure has been granted in the past when there is "widespread fighting, destruction and breakdown of public services and order" in the alien's country of origin.[*/]

[*/] 128 Cong. Rec. S831 (daily ed. February 11, 1982) (letter of Alvin Paul Drischler, Acting Assistant Secretary for Congressional Relations).

The leading treatise on Immigration Law formulates the standard as involving " . . . countries undergoing active hostilities or other dangerous conditions."[*]

The Departments of State and Justice have in the past examined the current social conditions in the applicant's native country and have granted EVD if the applicant has reason to be concerned for his safety as a result of conditions which exist in that country. Such findings have been made at various times for nationals of various countries[**] and are

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[*] Gordon & Rosenfield, *Immigration Law & Procedure* vol. 1, 5-48 (1982).

[**] The following is a partial list of grants of extended voluntary departure:

Cuba	1960-1966
Dominican Republic	1966-1978
Czechoslovakia	1968-1977
Chile	1971-1977
Cambodia	1975-1977
Vietnam	1975-1977
Laos	1975-1977
Lebanon	1976-present
Ethiopia	1977-present
Uganda	1978-present
Iran	1979
Nicaragua	1979-1980
Afghanistan	1980-present
Poland	1981-present

clearly appropriate for Salvadorans.[*]

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[*] The following reflects a consensus around enduring criteria for extended voluntary departure:

Poland:

"Service action shall not be taken to enforce departure to Poland, . . . at the present time *under the unstable conditions currently existing there.*" INS wire, January 21, 1982.

"As you know, *concern for human rights* forms a significant component of overall U.S. foreign policy. In particular, with respect to the situation in Poland, the U.S. and its Allies have taken a number of concerted steps to convey to the Polish authorities the seriousness with which we view their *continued denial of rights to the Polish people* and our insistence that these rights be restored . . . It may be at least another six months before the United States and other Western countries will be able to ascertain whether the Polish Government is truly prepared to allow the Polish people the exercise of their human rights . . . For these reasons the Department requests that the present policy of not enforcing the departure of Polish nationals from the United States . . . be extended for a six month period." Letter from Kenneth W. Dam, Acting Secretary, to the Attorney General, December 18, 1982.

Lebanon

" . . . *the civil strife in that country continues* . . . . *compelling humanitarian need* . . ." INS Wire December 4, 1978.

Nicaragua

"Service action shall not be taken to enforce departure to Nicaragua, prior to December 31, 1979, . . . at the present time under the *unstable conditions currently existing there.*" INS Wire July 3, 1979.

"The Department of State has recommended against the forcible return to Nicaragua of Nicaraguan nationals for the remainder of the calendar year, irrespective of the date of arrival in the United States, due to *the unsettled conditions in Nicaragua.* INS Wire August 29, 1979.

(footnote continued on following page.)

(footnote continued from previous page.)

Ethiopia

"Since Ethiopia's revolution took place in 1974 the Department of State has been recommending to the INS that Ethiopians in the U.S. who can demonstrate a well-founded fear of persecution be granted political asylum, and that because of unsettled conditions in Ethiopia, Ethiopians whose asylum applications were not approved should not be deported to Ethiopia . . ." Letter from William P. Clark to Doris Meissner, Acting Commissioner of INS.

Afghanistan

"Those aliens who do not apply for asylum but resist returning to Afghanistan *because of the turmoil prevailing in that country* rather than because of a fear of persecution, should be granted extended voluntary departure." INS wire, December 2, 1980.

Encouraging Illegal Immigration

The Administration argues that the grant of extended voluntary departure to Salvadorans would encourage further illegal immigration from a country which has in recent decades been a source of such immigration. To make its case the Administration refers to the pressing economic conditions in El Salvador, such as high population density. There is no reason to believe that granting extended voluntary departure only to Salvadorans already in the U.S. on the date of the grant would constitute such a "pull." They are already here and unlikely to be subject to inducement. The only relevant issue must therefore be the inducement, whether as lure or pretext, that a prospective grant of extended voluntary departure would offer to Salvadorans who seek to come to the U.S. purely for economic reasons.*/ To the extent that future "illegal" Salvadoran immigration to the U.S. is a reflection of a compelling humanitarian need, there is little that a promise of temporary relief from deportation could add by way of an incentive.[*] It is certainly noteworthy that despite the lack of any such inducement in the recent past, the flow of Salvadorans to the U.S. has increased steadily as the war in El Salvador has intensified. The chief of the Chula Vista Border Patrol sector which accounts for 40 percent of the border flow, recently testified before the Senate Subcommittee on Immigration and Refugee Policy that "non-Mexican" arrests were up 60 percent in January and 90 percent in February of 1984, and that the largest number of non-Mexicans being arrested were Salvadorans.

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*/ It must be assumed that the Administration uses "illegal immigration" and "economic migration" as interchangeable terms. Of course, most Salvadorans enter the U.S. illegally because they are offered no legal means of entry. Non-immigrant visas are rarely granted by U.S. consulates in Latin America. Moreover, for FY 1983 through March, of the 2,000 refugee visas alloted Latin Americans for the fiscal year, six were actually granted, four to Cubans and two to Argentinians.

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[*] Yet this is precisely what is ignored in the Secretary of State's reliance upon the experience with Nicaraguan immigration following the granting of EVD to that nationality. (Letter to Attorney General, June 23, 1983.) Acknowledging that accurate statistics are not available, he nevertheless makes the uncorroborated assertion that the 1979 grant of EVD to Nicaraguans was followed by a significant increase in illegal Nicaraguan entry into the United States. Even were this taken as true for purposes of argument, it would need to be understood in its historical context. The period immediately following the granting of EVD in 1979 corresponded exactly with the victory of the Sandinista forces over those of the previous government, and the initial consolidation of the new regime. Hence, the conditions in Nicaragua were in such turmoil and change that one could under any circumstances reasonably have expected Nicaraguans to have fled, and indeed to have fled to the United States, which had traditionally been friendly to their fallen government. The grant of extended voluntary departure was not the cause of this flight. It was, rather, a judicious response to a fait accompli which would otherwise have threatened the stability and resources of the immigration enforcement and immigration adjudication functions of the U.S. government.

It is by no means clear how significant a proportion of future potential Salvadoran migrants are likely to be purely economic immigrants. While economic reasons for illegal entry into the U.S. may be relevant to some degree, one can hardly deny that other factors already provide substantial incentives for fleeing El Salvador and seeking safety in other countries. Indeed, the repeated and continuing experience of extreme horror and violence in El Salvador, and the desire to find safety from it, would more likely be an immediate consideration for the average Salvadoran than would an evanescent dream of prosperity.

The economic motive in the migration of Salvadorans is certainly no more significant a factor than in the temporary immigration to the U.S. of other nationalities to whom, in the past, the U.S. has granted extended voluntary departure. When people flee conditions of violence, horror and the breakdown of social order they do indeed simultaneously need to find a means of subsistence elsewhere. The universal human need to eat, and to work to eat, can hardly be considered a more important factor than the very specific life-threatening conditions which have occasioned the Salvadoran flight.

Moreover, the Administration's basic postulate, i.e. its view of the Salvadoran migration of the past decade as primarily economic, is an over-simplification. It ignores widespread human rights violations characteristic of the Molina and Romero regimes which preceded the coup of 1979.*/ However, even assuming it to be an approximately accurate view of the migration of the 1970s, it is not relevant to the decision on extended voluntary departure since the issue here is, as noted above, fear of repatriation, not original motive for entry.**/ Moreover, it does not accurately describe the forces, objective and subjective, which might impel Salvadorans to migrate to the U.S. in the future. In this latter respect it is a severely flawed basis for the making of policy.

The greatest irrelevance, for practical purposes, of the economic migrant/illegal immigration issue to the granting of extended voluntary departure resides in the following. Insofar as the Administration wishes to avoid rewarding persons who came to the U.S. before 1979, i.e. presumptive economic migrants, it has already conceded the issue. These immigrants will in most cases be eligible for the legalization program*/ of the pending Immigration Reform legislation, which the Administration has supported. Hence, they would not be in need of the legal protections provided by extended voluntary departure. Thus, assuming that the Administration's postulates are correct, the refusal of extended voluntary departure will leave undocumented precisely those most likely to have fled the danger of war, *i.e.* the most recent arrivals.

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*/ See Report on Human Rights in El Salvador, Americas Watch/ American Civil Liberties Union, January 1982; El Salvador, Background to the Crisis. Camino, 1982; Report on the Situation of Human Rights in El Salvador, Organization of American States, 1978.

**/ See Wire from INS Central Office to field offices, August 29, 1979: "The Department of State has recommended against the forcible return to Nicaragua of Nicaraguan nationals for the remainder of the calendar year, irrespective of the date of arrival in the United States, due to the unsettled conditions in Nicaragua." (Emphasis added).

Availability of Refuge in Countries of Transit to the U.S.

The Administration argues that Salvadorans could have found refuge in the countries they have travelled through on their way to the U.S. This can have no bearing upon the advisability or humanity of our now repatriating persons already here to El Salvador. We must therefore assume that the Administration may mean to imply any or all of the following:

a. that Salvadorans who continue travelling to the U.S. must therefore do so solely in order to improve their economic condition;

b. that persons now fleeing El Salvador should be encouraged to remain in Honduras, Guatemala or Mexico;

c. that persons already in the U.S. should be returned to Mexico, Guatemala or Honduras.

The public record, the bulk of which is set out at Appendix II and a summary of which is presented below, suggests quite unequivocally that the countries through which Salvadorans travel do not constitute a safe or feasible environment for them, even on a temporary basis. This suggests that the characterization of Salvadorans who continue travelling to the U.S. as therefore "economic migrants" is not justified, even if it were relevant to the decision on extended voluntary departure, which of course it is not. This also suggests that it is inadvisable to return Salvadorans to Mexico or other countries of the region, and that reliance upon those countries for safe haven for prospective refugees of the Salvadoran civil war is inadvisable without a serious new U.S. commitment to assist the United Nations High Commissioner for Refugees (UNHCR) and other international agencies to meet basic needs for safety and subsistence.

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*/ Title III, S.529, H.R. 1510.

Humanitarian considerations may require the development in the future of options which would not require long and hazardous journeys by Salvadorans, but would rather provide for safe and humane resettlement in the countries adjacent to or closer to El Salvador. However, as the evidence indicates, Honduras, Guatemala and Mexico do not at present offer safe haven in any meaningful or reliable sense. In order for resettlement in Mexico or the countries of Central America to be a viable and humane option, the U.S. must make a substantial diplomatic and material commitment to the establishment of the clearest guarantees against involuntary repatriation, and of safe and habitable conditions for Salvadorans in those countries. Short of these guarantees and conditions there can be no meaningful reliance on the option of Central American or Mexican resettlement for persons who will in the near future flee El Salvador.

Figures released by the United Nations High Commissioner for Refugees show that on May 31, 1983, there were 247,500 Salvadoran refugees throughout Central America. Of these only 34,309 were assisted in any way by the UNHCR. The figures for the countries relevant to the present argument are as follows:

Mexico	120,000	-	3,500 assisted
Guatemala	70,000	-	none assisted
Honduras	17,500	-	17,125 assisted

It is remarkable, and no accident, that Honduras, which would seem to be the natural haven, is in fact numerically the least significant as a country of refuge. The matter presented below indicates that the Salvadorans have long led very insecure lives in Honduras. The Salvadoran forces have not always respected the international boundary with Honduras.*/ Amnesty International has received reports that Salvadoran refugees, and Salvadoran and Honduran relief workers, have been attacked and killed by Salvadoran military and paramilitary troops on Honduran soil or after being forcibly returned to El Salvador.**/ In an interview conducted in June 1981, the then Minister of Defense of El Salvador articulated the security concerns which encourage such behavior to continue. The Defense Minister stated that "at least 15 percent, or 4,500 of the refugees along the border are considered to be subversive." He conceded that some were "real refugees," but insisted that "a large sector (exists) that appears to be refugees and are simply terrorists, who go precisely to find refuge, and then return, commit their misdeeds, and go back."*/ Sometimes the Salvadoran troops enter with Honduran complicity.**/ The Honduran military forces have, on occasion, been undisciplined and lacking in due solicitousness for refugees of all nationalities. Amnesty International reports that, "Honduran and foreign workers assisting Salvadorian refugees suffered human rights violations during 1982."*/ On June 16, 1983, forty Honduran soldiers, accompanied by thirteen paramilitary Guatemalans, entered the Guatemalan refugee camp at El Tesoro where, after beating those in charge, they carried off seventeen persons.**/ The camp, located ten kilometers from the Guatemalan border in Honduran territory, houses about 600 refugees. While trying to prevent the abduction, a UNHCR Protection Officer, Solange Muller, was kicked and beaten by Honduran soldiers.***/ A message from the High Commission to the President of Honduras recalled the principles of security of refugee camps placed under the protection of the U.N., and of refusing to turn refugees over to their countries of origin.****/

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*/ Tegucigalpa Televisora Hondurena, 21 June 1983; (FBIS, 22 June 1983):

> "The Salvadoran Government has been asked to make a thorough investigation of the serious incident reported by local news media. The report says that two Salvadoran soldiers from the Miramundo Command came to the village of San Jose Jocotan, in Mercedes Municipality, Ocotepeque Department, and shot to death Honduran citizens Ovidio Osmin Flores Romero, Jose Roberto Pinto, Juan Escobar Espana, and two other persons identified only as Adan and Marta, the latter a Salvadoran citizen."

**/ *Amnesty International Report* 1983. Pp. 133, 148. These and related matters are detailed at Appendix II, Pg. A-7 *et seq.*

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*/ Report on Human Rights in El Salvador, Americas Watch/ACLU, January 1982, Pg. 176.

**/ Amnesty International Report, 1983, Pp. 133, 148. See also the following account, contained in a letter from refugees in La Virtud Camp to UNHCR:

> . . . 1. Since the month of November we have endured all kinds of attacks on our dignity by the Honduran and Salvadoran armies. As evidence of this: on November 16 the National Guard entered this camp and took 32 poor refugees. On January 12 [Honduran troops] killed an old man, 65 years old, and his daughter . . . seven months pregnant. . . . Since then we have endured all types of repression such that it is hard to walk two blocks from this place, because refugees are captured, disappeared and assassinated.
>
> 2. This is more evidence that neutrality does not exist in Honduran territory, but rather a collaboration of the Salvadoran and Honduran armies. This is why our safety is not guaranteed either here or in Mesa Grande where they want us to be moved.
>
> CARITAS Workers in La Virtud, Appui au Programme D'Observateurs au Honduras, April 13, 1982; cited in Americas Watch/ACLU, 1st Supplement, Pg. 100.

This last incident suggests how fragile is the agreement recently cemented between UNHCR and the Honduran government, regarding security of refugees. The need for such an agreement had been apparent for a while. Abductions of refugees by unknown assailants are common. The Honduran Military enters Salvadoran refugee encampments frequently. (This information is more fully set out below, at Appendix II).

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*/ Amnesty International Report, 1983. Pg. 150. See also Appendix II, Pg. A-7 et seq.

**/ Announced in Geneva, Switzerland, by a spokesman of the UNHCR, June 1983.

***/ Share Bulletin, August/September 1983, Pg. 6.

****/ FBIS 21 June 1983.

Guatemala presents a more acute problem, as is evidenced by the figures: 70,000 Salvadorans present, but none assisted by UNHCR as of May 31. Hence, a large Salvadoran population remains quite powerless and vulnerable to the acute conditions of civil war and generalized political violence which are characteristic of Guatemala itself.[*/] The absence of the UNHCR from Guatemala is an outgrowth of a positive abhorrence on the part of the Guatemalan government for an international presence in Guatemala.

Guatemala creates refugees of its own. Relief agencies in Mexico report that Guatemalan refugees continue to seek haven in Mexican refugee camps. This is so even as a Mexican initiative gets under way to control entry by Central Americans into Southern Mexico. The State Department's Country Reports on the World Refugee Situation indicate 250,000 Guatemalans have been displaced either within their country or over its borders. An emergency food program for their assistance will only relieve the suffering of 125,000. To this picture of displacement of Guatemalans must be added the estimated 10,000 to 100,000 Salvadorans and Nicaraguans who have found themselves in Guatemala.[**/] Since Salvadorans are "strangers" in any

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[*/] See Amnesty International Report, 1983. Pg. 139 et seq. "Amnesty International was concerned about widespread extrajudicial executions; "disappearances" after arrest often without warrant; and torture. The victims came from all sectors of society, including peasants and Indians, trade unionists, religious personnel, political leaders, journalists and members of the legal profession. They numbered many thousands in 1982."

[**/] Department of State, Country Reports on the World Refugee Situation, FY 1983, Pg. 106.

given locale in Guatemala, and since many have been forced to leave El Salvador without personal identification, they are particularly likely to be suspected as subversives and summarily executed. The information available clearly suggests that suspicion of subversive sympathy frequently leads to summary execution.*/

Any hopes that Mexico could provide a feasible refuge for Salvadorans were dashed when the Mexican government recently unveiled new regulations and shifted important personnel in an attempt to stem the availability of refuge in Mexico. The new measures include increased patrols along the southern border with Guatemala and a change of emphasis in the Government's refugee commission (COMAR) from coordinating aid to closer monitoring of refugees activities. Visa requests from Salvadorans and Guatemalans, who were specifically identified as the groups at issue by the Interior Minister, must now be made in their country of origin.**/

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*/ Amnesty International Report, 1983. Pp. 141,142.

**/ New York Times. June 22, 1983

This series of actions of the Mexican federal government is merely the latest and most worrying of a series of longstanding practices of local Mexican officials and of the Guatemalan military forces. Amnesty International reports that during 1982 it:

> "[l]earned on several occasions of the forcible repatriation by Mexican local authorities of Guatemalans who had gained refuge in southern Mexico. Reports were also received that individuals who had been forcibly returned had been subjected to human rights violations in Guatemala, including extrajudicial execution. Detailed accounts were received of the incursion into Mexican territory of Guatemalan military and paramilitary troops. They were reported to have killed Guatemalans on Mexican territory and to have abducted others back across the border where, according to witnesses in Mexico, they were summarily executed. Amnesty International appealed on several occasions to the Mexican authorities not to return refugees, and to investigate reports that refugees had been forcibly returned to their country of origin. Information about cases of forcible repatriation was submitted to the United Nations High Commissioner for Refugees."*/

It appears, therefore, that the Administration is mistaken when it argues that the Salvadorans who are seeking safety may feasibly remain in their countries of transit to the U.S.

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*/ Amnesty International Report, 1983. Pg. 143.

Asylum

The Administration has stated that it considers extended voluntary departure unnecessary for Salvadorans because it considers case by case review of asylum applications sufficient to protect Salvadorans with a genuine fear of being returned to El Salvador.

However, asylum is an appropriate remedy for only a limited proportion of the Salvadoran population in the U.S. Many will have a fear not of individualized persecution, as required for asylum[*/], but rather of generalized violence, as is appropriate to

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[*/] Martinez-Romero v. INS. 692 F2d. 595 (9th Cir. 1982); Matter of Sibrun, Int. Dec. 2932 B.I.A. 1983.

A recent administrative decision, In Re: Escobar & Sanchez presently on appeal to the Board of Immigration Appeals, goes so far as to require that when an asylum claim is founded upon a fear of persecution on the basis of membership in a social group, the individual applicant must demonstrate that she would suffer more than other members of that group, regardless of the factual showing made with regard to the particular dangers facing the social group as a whole.

This has had the peculiar result that, the more general the violence and terror visited on the civilian population, the less likely is any individual to qualify for asylum.

This high burden of proof placed upon Salvadoran asylum applicants stands in stark contrast to the Administration's treatment of persecution claims by favored nationalities. Applicants for admission as refugees, who are by the Refugee Act required to meet an identical standard to asylum applicants, are as a matter of course judged according to certain presumptions of persecution drawn from generally known conditions. Refugee Reports Vol. IV, No. 15. Pg 5. A letter from Theodore B. Olson, Assistant Attorney General, Office of Legal Counsel to Senator Walter D. Huddlestone (D-KY), dated 6 May 1983 describes, with respect to Indochinese applicants for refugee admission, "case by case review, coupled with common sense application of commonly known circumstances to people falling within particular groups." While this standard would still not benefit civilians whose only fear is of generalized violence, it could go a long way to dealing with some of those Salvadorans who are presently denied asylum. However, even such limited amelioration of the situation of Salvadoran refugees in the U.S. is not realistically to be anticipated.

extended voluntary departure. Recent executive communications indicate quite clearly that extended voluntary departure has been used precisely to benefit nationalities whose fears make asylum an inappropriate remedy. Assistant Secretary of State William Clark wrote to Doris Meissner Acting Commissioner of INS, that "Since Ethiopia's revolution took place in 1974 the Department of State has been recommending to the INS that Ethiopians in the U.S. who can demonstrate a well-founded fear of persecution be granted political asylum, and *that because of unsettled conditions in Ethiopia, Ethiopians whose asylum applications were not approved should not be deported* to Ethiopia. . ." (Emphasis added). An INS wire dated December 2, 1980 stated that "Those aliens who do not apply for asylum but resist returning to Afghanistan *because of the turmoil prevailing in that country rather than because of a fear of persecution*, should be granted extended voluntary departure and work authorization in increments of one year." (Emphasis added.)

The most recent statement of the Attorney General on EVD appears to clearly acknowledge this most important distinction*/, and thus undercuts a crucial element of the Administration's own argument against EVD.**/

Asylum entitles a person granted it to apply for permanent resident status after one year. It is thus clearly a less flexible device than extended voluntary departure for answering the needs of persons seeking only temporary safety.

Moreover, even were asylum an appropriate remedy for persons in the situation of Salvadorans, it would prove insufficient, in practical terms, for protecting from deportation all, or even most of, those who have a legitimate fear of being repatriated. Meritorious claims fail to be asserted for various reasons. The Salvadorans in the U.S., though very industrious, remain a largely poor population. They lack not only the financial resources but also the cultural and linguistic resources to fully pursue their eligibility for asylum. They have difficulty understanding clearly their rights, their entitlements, and the type and quantum of evidence which is required of them. Resources for providing counsel to them are extremely limited. Under the terms of the current Continuing Resolution, government funded legal service programs may not represent Salvadoran asylum applicants. The few independently funded organizations which exist to assist Salvadorans cannot meet the demand by Salvadorans for assistance in asylum proceedings.

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*/ "This is not to suggest that grants of "extended voluntary departure" and asylum are based upon the same considerations and criteria." Letter to Congressman Larry Smith, July 19 1983.

**/ Compare, for instance, the clear thrust of the argument propounded by Assistant Secretary of State Abrams: "Diluting Compassion", New York Times, August 5, 1983.

Recent developments offer reason to believe that Salvadoran refugees in the U.S. are particularly disadvantaged by the discriminatory application of standards for determining eligibility for asylum.[*] Federal courts have been compelled to order the INS to refrain from engaging in systematic tactics to deprive Salvadorans of all meaningful opportunity to apply for asylum.[**]

Suffice it to say that only a tiny minority of the Salvadorans in the U.S. has applied for asylum. Most have done so only after being apprehended by the the Immigration Service. In light of the public record on human rights in El Salvador, this is startling. The Administration has pointed to it as a sign of the ineligibility of most Salvadorans for asylum. It could, however, equally well reflect a systematic presumption against Salvadoran asylum applicants. This could discourage and has discouraged even Salvadorans who might be eligible for asylum from applying for it.

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[*] The figures on asylum adjudications at Page 4 above (and Fn.) are suggestive. In an average period only 5-10% of all Salvadoran applications decided are granted. *See also* *Hotel & Restaurant Employees Union, Local 25 v. Smith* 563 F. Supp. 157 (D.D.C. 1983). *See also* the discussion at footnote Page 50.

[**] *Orantes-Hernandez et al. v. Smith et al.*, 541 F. Supp. 351 (C.D. CA, 1982), *Nunez v. Boldin* 537 F. Supp. 578 (S.D. Texas, 1982).

The conclusion to be drawn is clear. Reliance upon asylum procedures is rational neither from the perspective of the Salvadorans nor from the perspective of our immigration policy. For the Salvadorans it is an uncertain expedient against deportation. For the U.S. it does not offer efficient management of our _de facto_ refugee problem. Regardless of whether all Salvadorans precisely fit the definition of "refugee" under the U.S. Refugee Act, it is clear that they pose a problem for policy makers. Their presence in large numbers poses problems[*/] for immigration policy in particular and social policy in general. Clearly, however, they may be expected to continue arriving for compelling humanitarian reasons which will override any deterrents to entry which U.S. policy may devise. Treating persons as presumptively economic migrants, and therefore presumptively ineligible for asylum has clearly not proved sufficient to managing the migration from El Salvador. Nor does asylum present a feasible alternative.

[*/] See discussion of Immigration Policy immediately below.

Immigration Policy Considerations

The Administration offers immigration policy as a reason for not granting extended voluntary departure. However, it is the immigration policy considerations which most strongly support the case for extended voluntary departure.

Clearly, the Administration is concerned about encouraging illegal immigration and about control and enforcement problems with respect to an undocumented population. Equally, "control " and "enforcement" are the hallmark of the present national consensus on immigration policy. In pursuit of these goals, two directions have emerged: incentives for undocumented aliens to register with the authorities, in the form of "legalization" for temporary or permanent residence, and bureaucratic monitoring of the presence of aliens who are expected to leave the U.S. eventually. If, as is suggested above, Salvadorans will continue to flee to the U.S. regardless of the legal status or social disadvantages which await them here, it is clearly important that they be brought into the open and registered with the authorities.

Underlying much of this recent thrust in U.S. immigration policy has been the parallel notion that the existence of an "underclass" in the U.S. is extremely prejudicial to the interests of the U.S. population. Social order and occupational, medical or housing standards suffer from the presence of an intimidable and exploitable population in our midst. It is axiomatic in discussions of U.S. immigration policy that persons illegally present in the U.S. will be afraid of apprehension and deportation. They will therefore be particularly exploitable by employers, landlords or sharp traders, and will be particularly reluctant to seek medical attention or police protections.

Salvadorans certainly have, and may be expected to continue to, come to the U.S. for compelling reasons regardless of U.S. immigration policies and practices towards them. Since the consequences of deportation for them will be considerably more serious than mere economic hardship, they will be exceptionally compliant and exploitable. They are therefore highly likely to pose the most extreme case of an "underground" or "underclass" population. The availability of extended voluntary departure would encourage these persons to register their presence with the authorities and, having obtained work authorization, to accept employment in a forthright rather than a surreptitious manner. This would serve the entire range of social policy goals which underlie comprehensive immigration reform.

Simultaneously, the U.S. would benefit in having a clearer sense of the size and location of the Salvadoran population in the U.S. Insofar as such an arrangement would also serve to identify and locate Salvadorans who are in the U.S. it would allow the U.S. to enforce departures of Salvadorans in the future when a determination had been made that circumstances in El Salvador had improved sufficiently to allow this. This would in fact be the only expedient for preventing substantial numbers of Salvadorans from remaining once conditions in El Salvador had indeed improved. If they remain undocumented, some will undoubtedly seek to remain for family, economic or other reasons.

if known to the authorities, they will be more easily located for purposes of immigration enforcement.

A further advantage to U.S. immigration policy in granting of extended voluntary departure to Salvadorans is that it would improve administrative efficiency. The Administration and others have observed that the asylum adjudications system is seriously backlogged.*/ It has also been repeatedly observed that the resources available to INS for investigation, detention and deportation are woefully inadequate to the task of enforcing the immigration laws.**/

As a group, Salvadorans are clearly motivated by fears of violence which distinguish them from the undocumented aliens who have entered solely for economic reasons, even if these fears

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*/ *See*, Committee Report, Immigration Reform & Control Act of 1983, HR 1510, at page 35. *Note also* the following figures for March 1983:

Total Asylum Application Pending with District Directors: 128,227.

Salvadoran Asylum Applications Pending: 21,247.

Salvadoran Asylum Applications Filed: 717.

Salvadoran Asylum Applications Completed: 464.

Total Asylum Adjudications Completed: 1909.

(Source: Immigration & Naturalization Service).

**/ Hence, on February 14, the Attorney General announced the construction of a new detention facility for 1,000 aliens at Oakdale, Louisiana. *See also*, *Committee Report, Immigration Reform & Control Act of 1983*: *supra* at Pg. 48: "The Committee has long been aware that the Immigration and Naturalization Service has been consistently underfunded, undermanned and neglected . . . The lack of attention and appreciation of the responsibilities of the Service has been largely to blame for the chaotic state of our present immigration situation."

do not in all cases qualify them for asylum. Hence the most rational and humane policy would be one which established a low priority for allocation of resources to the detention or deportation of Salvadorans in the U.S. The limited hearings capacity of immigration courts, the limited bureaucratic resources available to INS District Directors for asylum adjudications, the available detention facilities, and financial resources for the costs of returning aliens could all then be reallocated to the improvement of control over the many undocumented aliens in the U.S. who do not present the compelling humanitarian case of the Salvadorans.

Foreign Policy Considerations

In raising this as a consideration against extended voluntary departure, the Administration is mistakenly assuming that the judgement about conditions in El Salvador implicit in a grant of extended voluntary departure will itself imply conclusions about the nature of the Salvadoran government: conclusions which will interfere with amicable relations between the two governments. This rests, yet again, upon a misunderstanding of the criteria for extended voluntary departure. Since breakdown of order and general danger to personal security are the relevant issues, the implicit statement of a grant of extended voluntary departure would not call into question the human rights record of the Salvadoran government but rather its incapacity to maintain the requisite degree of order. The fact that the Salvadoran government is beleaguered in such a fashion indicates nothing about how deserving it is of U.S. support.

In fact, the major foreign policy consideration to be made in the context of El Salvador and Central America is the maintenance of stability and U.S. influence in the region. The flow of refugees from El Salvador to the other countries of the region poses one of the most likely instruments for regionalization of the conflict in El Salvador. The influx of refugees into border areas already rife with security and economic problems exacerbates the difficulties experienced by most governments in maintaining the security of those border areas. This concern is all the more compelling if the influx is to turn into resettlement, however temporary. The resulting unstable border conditions form a perfect opportunity for exploitation by interests opposed to the U.S.

Extended voluntary departure would accomplish outcomes which in turn promise to mitigate these security problems. It would, if applied prospectively relieve Central American governments of such burdens. Most importantly, however, an indication of practical humanitarian commitment by the U.S. would enhance the moral, and consequently the political, authority of the U.S. to intervene in the disposition of local crises or local resettlement plans. This would in itself allow consideration of the strategic security questions implicated therein, and a regional and systematic approach toward mitigation of security problems.

The major foreign policy consideration in the most recent grant of extended voluntary departure, i.e. to the Poles, is the maintenance of consistency with the policies of U.S. allies respecting the nationality groups at issue. The application of this criterion should compel rather than preclude the granting of extended voluntary departure to Salvadorans. Consideration of how U.S. allies have acted with respect to Salvadorans indicates this quite clearly. It has been argued by the Administration that the unanimity of European allies in declining to return Poles has compelled the U.S. to follow suit. An examination of the Salvadoran predicament reveals a similar constraint. While remaining highly unsafe, so unsafe indeed that they cannot now be considered options for safe refuge, the countries of the region have not systematically returned persons to El Salvador. The Canadian government has not only declined to return Salvadorans to El Salvador, but has in fact made express arrangements for their admission to Canada.*/

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*/ The Canadian government has made the following commitments:

1. 2000 refugees to be admitted in 1983 over and above those sponsored by churches and individuals.

2. Immigration processing capacity in Mexico has been increased.

3. Admission to Canada of some Salvadorans facing deportation from the U.S.

4. A special program for Salvadoran political prisoners and their family to enter Canada.

Source: Minister, Employment and Immigration, Government of Canada, Release June 17, 1983.

It appears, indeed, that U.S. foreign policy will be served by a fittingly humanitarian gesture towards the Salvadorans. International opinion is extremely sensitive to the tragic plight of the Salvadorans who have fled their country. The governments of all countries of North and Central America, *except for the U.S.*, have declined to return Salvadorans to El Salvador. If the U.S. is perceived as discriminating against Salvadorans in favor of other nationalities, such as those who presently enjoy extended voluntary departure status, this clear injustice will call into question the moral authority of U.S. assertions regarding our progressive and humanitarian hopes for El Salvador.

Moreover, a neglected Salvadoran refugee population in Central America or an undocumented one in the U.S. constitutes an additional human cost of the conflict in El Salvador. The failure to respond adequately to that human cost will weaken or undermine the support in Congress of vigorous pursuit of U.S. interests in that conflict.

Indeed, to ignore humanitarian considerations in the formulation of policy towards the Salvadoran refugees would be inconsistent with the clear record of pronouncements by the political branches on human rights in El Salvador. Such inconsistency would create confusion about the elements of U.S. policy at precisely the time which calls for consistency.

All branches of the U.S. government have viewed the humanitarian situation in El Salvador with great concern. In 1981, concerned that United States military aid might contribute to human rights violations, Congress required that continued military aid depend upon certification by the President that the human rights situation in El Salvador was improving.[*/] Although the Administration has issued the requisite certifications, it has had to acknowledge that.

> It is nonetheless clear, and this report documents, that human rights abuses continue and that the further development of democracy and the protection of human rights are not to be taken for granted. Two areas of particular concern are the systematic ineffectiveness of El Salvador's criminal justice procedures, particularly in cases originating in political violence, and in the need for further improvement in military discipline.[**/]

The State Department notes that:

> Serious human rights problems continued in El Salvador in 1982, despite signs of improvement throughout the year. Incidents of political assassinations, killings of civilians, disappearances and torture continue to be reported, although at substantially lower levels than in 1981. The judicial system has failed to function effectively in the face of a guerrilla movement and abuses committed by elements of the security forces and rightist groups.[***/]

Finally, federal courts have made findings of fact which underscore the reality of endemic violence in El Salvador.[****/]

[*/] International Security and Development Cooperation Act of 1981, P.L. 97-113, SS 728 et seq.

[**/] Certification Report, January 1983, n. 18 at 2-3.

[***/] *Country Reports on Human Rights Practices, 1982.* Department of State, Pg. 490.

[****/] *Orantes-Hernandez v. Smith* 541 F. Supp. 351 (C.D., California. 1982);

Particular Danger for Returned Salvadorans

The Administration believes that Salvadorans returned from the U.S. face no greater dangers than those who have never left. It considers this relevant to the decision on extended voluntary departure.

Even were this belief justified, it is irrelevant to decisions on extended voluntary departure. Particular danger has never been a consideration in past grants of extended voluntary departure. Indeed, the general conditions in a particular country are precisely the central consideration in such grants. Since general conditions are by definition general, i.e. they don't affect particular populations, the particular fate of persons returned is quite irrelevant.

It is in any case an unwarranted generalization to assert that persons returned from the U.S. have no particular consequences to fear. The few documented cases now extant suggest that persons returning from the U.S. to El Salvador are particularly vulnerable.*/ That this record is as sparse as it is reflects only the extreme difficulty of monitoring the fates of persons returned. Information is extremely difficult to obtain from El Salvador. Unsettled conditions and fear of reprisals make it extremely inadvisable for private parties to conduct investigations to determine the fate of returned Salvadorans. The U.S. has yet to commit its resources to such an investigation, although it is best placed to carry it out and although it considered such a study necessary and feasible in Haiti.

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*/ See materials at Appendix III.

Extended voluntary departure is granted to persons whose safety is in jeopardy because of the breakdown of social order. Salvadorans would, upon return, face extreme danger. This is sufficient.

Are Present U.S. Initiatives in El Salvador Sufficient?

U.S. support for reforms in El Salvador is undoubtedly critical to the possibility of a peaceful solution to the civil war in El Salvador. However, it is not realistic to expect the fruition of these efforts in the near future. Ambassador Deane Hinton, U.S. Ambassador in El Salvador until mid-1983, has clearly stated that the war may be expected to continue for a while.*/ Conflicting reports regarding the preparedness for victory of either side appear with bewildering frequency.**/ The all-important land reform program is severely threatened. Indeed, the political tensions to which it gives rise are themselves significant occasions for new violence.***/ There has been a "sharp rise in killings by rightist death squads."****/

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*/ Hinton Predicts Long Salvadoran War, Washington Post, April 28, 1983.

**/ Salvador Rebels Flee Army Offensive, Washington Post, June 12, 1983, Pg. A21; Salvador Strives to Retain Trained Troops, Washington Post, June 14, 1983; Salvador's Ability to Win Doubted in Report, New York Times, April 22, 1983, Pg. A11; El Salvador Said to Gain on Rebels, Washington Post, July 18, 1983, Pg. 1; Salvadoran Army Said to Lose Momentum, Washington Post, August 31, 1983, Pg. A14.

***/ Land Reform Debate Heightens Tension in El Salvador, Washington Post, November 3, 1983, Pg. A26.

****/ Ibid.

There has also been a major offensive by the guerrillas. On November 14, 1983, the town of San Lorenzo was attacked for twelve hours by 300 guerrillas. What makes this significant is the fact that San Lorenzo, a mere 37 miles east of San Salvador, is at the center of a U.S.-financed reconstruction project designed to attract refugees back to their homes.*/

The New York Times reported on November 4, 1983, that according to U.S. military advisers, the guerrillas had in the previous two months greatly extended the country's contested zone. More than 60 towns were attacked in that period. Nine of the country's 14 provinces were affected.**/

The humanitarian problem which is described herein is of such a scale as to require immediate attention. Improvements that will gradually emerge from long term U.S. initiatives will only produce their speculative benefits in the remote future. Certainly, when such improvements do occur the Administration could reconsider, and if appropriate revoke, extended voluntary departure for Salvadorans. For the present, remote and speculative improvements in El Salvador can provide no justification for the U.S. to turn its back to the pressing humanitarian problem of the Salvadoran refugees.*/

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*/ Rebels Attack in Salvador, New York Times, November 15, 1983.

**/ Salvador Rebels Make Gains and U.S. Advisers are Glum, New York Times, November 4, 1983, Pg. 1.

Will Salvadorans Remain?

The Administration is concerned that Salvadorans will seek to remain in the U.S. after conditions in El Salvador have improved and extended voluntary departure rescinded. As argued above**/ extended voluntary departure encourages Salvadorans to make their presence known to the authorities, and thus would allow I.N.S. to more easily locate these overstaying visitors than if they had remained undocumented.

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*/ Nor can the U.S. rely significantly upon the distribution of humanitarian aid in El Salvador. Visiting delegations and resident journalists have reported problems with the distribution of U.S. assistance to its intended beneficiaries. Update, Latin America, Washington Office on Latin America, September/October 1983, Pg. 8.

**/ Immigration Policy Considerations, Pg. 55.

Moreover, all sources agree that the Salvadorans are interested in returning to El Salvador as soon as it is safe for them to do so. These sources include the UNHCR, U.S. officials and the Salvadoran refugees themselves.*/

This is hardly surprising. Whatever the economic benefits of life in the U.S., El Salvador represents, for those who have left, family and a familiar way of life. There is every reason to believe that, if these were indeed safe, Salvadorans would choose to return.

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*/ "Most of the refugees are peasant farmers and instinctively settled near the border, hoping that they might one day be able to return home and farm their own land." U.N. High Commission for Refugees, Refugees, Sept. 1982:

"...most refugees are hopeful of returning to their homelands as soon as the turmoil ends." U.S. Coordinator for Affairs, Ambassador-at-large Eugene Douglas, "Congressional Briefing Paper and Talking Points on Refugees and Potential Refugees from Central America", May 17, 1983:

"On behalf of 9,000 Salvadoran refugees...we write to you in order to describe the reality of our people who have suffered being torn away from their land...we want to return to a new country in peace, justice and security. Not the military security of a repressive government, but a security that comes from our own people." Letter from the Salvadoran refugees of Mesa Grande camp in Honduras to Pope John Paul II, January 17, 1983.

APPENDICES

Appendix I

Conditions in El Salvador: Sources

There is a copious body of material available on this subject, gathered in spite of all the obvious obstacles and practical difficulties of gathering information in El Salvador. The following can only purport to be a summary review.

A. General Sources

1. Americas Watch/ACLU, Report on Human Rights in El Salvador, January 1982; Published every six months, 4th Supplement January 31, 1984. (Murders of Civilians by Government Forces; Disappearances; Torture; Repression against Human Rights Monitors, Political Leaders, Doctors, Health Professionals, Refugees, Refugee Workers, and the University; Aerial Attacks on the Civilian Population; Forceful Recruitment.)
2. Department of State, Country Reports on Human Rights Practices for 1983.
3. U.N. Human Rights Commission, Final Report on the Situation of Human Rights in El Salvador. (Massacres of Innocent Persons; Fate of Non-Combatants; Sabotage; Failure of Judicial Protection; Prisoners; Torture; Refugees and Displaced Persons; Armed Conflict), January 20, 1983.
4. Central America Monitor; Information Services on Latin America; (The Data Center, Berkeley, CA; News Clipping Service, all subjects.)

5. Salvadoran Asylum Documentation Materials, National Immigration Project. (News clippings on Teachers, Peasants, Trades Unions, Youth, Christian Democrats, Clergy and Journalists).

6. Amnesty International
    a) Report 1983.
    b) Urgent Action Bulletins (UA) 1980 - 1983.
    c) Central America Special Action Bulletins (CASA) 1980-1983.

7. Mexican Press:
    El Nacional
    El Dia
    Uno Mas Uno
    Excelsior

(Military and General News)

8. El Diario de Hoy, San Salvador. (Daily Newspaper. Accounts of individuals murdered or disappeared, Military Activity, and all matters.)

B. Education

Faculty for Human Rights in Central America/El Salvador, Education and Human Rights in El Salvador. (Report of a National Faculty Delegation to El Salvador, January 3 - 10, 1983). (The Universities; Primary and Secondary Schools, National Association of Salvadoran Educators; Prisons; Refugee Camps; Human Rights.

C. Health, Casualties, Torture & Related Medical Issues

1. International League for Human Rights, Violations of Human Rights Directed Against Health Professionals and Health Workers/State of Public Health and Human Services. July 19, 1983. (Includes individual accounts of abduction, torture etc.)

2. American Public Health Association, Human Rights in El Salvador, Report of the Public Health Delegation of Inquiry, January 1983.

3. American Association for the Advancement of Science, Institute of Medicine of the National Academy of Sciences et. al., Report of a Medical Fact-Finding Mission to El Salvador. January 11-15, 1983. (Health Professionals and Workers; Political Prisoners; Public Health and Health Services; University and Medical School.)

4. Committee for Health Rights in El Salvador, Health and Human Rights in El Salvador, New York, July 1983.

D. Legal Protection

Adrian W. De Wind & Stephan L. Kass, Justice in El Salvador, A Report of a Mission of Inquiry of the Association of the Bar of the City of New York.

1. The Collapse of Criminal Justice
    a. Corruption
    b. Intimidation
    c. Inadequate Training
    d. Insufficient Resources
    e. Availability of Counsel

2. The Military and the Courts
    a. Abduction, Torture and Murder
    b. Detention Without Trial
    c. Judicial Review of Security Actions

3. Institutional Reforms (includes Judicial Selection).

E. Economic Dislocation

El Diario de Hoy, El Salvador. (Daily newspaper. Provides indication of geographical focus of disruption of buses, loss of cattle etc. See especially May 29 - June 13)

F. Disappearances and Murders

El Diario de Hoy, El Salvador (Daily Newspaper. Identifies individuals.)

Appendix II

Salvadoran Refugees in Honduras, Guatemala and Mexico

Honduras

Recent events indicate that Honduras is not safe for refugees, despite an accord entered into between the Honduran military and government and the U.N. High Commissioner for Refugees (UNHCR).

The Salvadoran government has been asked by the Honduran government to make a thorough investigation of an incident reported by local news media. The report says that two Salvadoran soldiers from the Miramundo Command came to the village of San Jose Jocotan, in Mercedes Municipality, Ocotepeque Department, and shot to death Honduran citizens Ovidio Osmin Flores Romero, Jose Roberto Pinto, Juan Escobar Espana, and two other persons identified only as Adan and Marta, the latter a Salvadoran citizen.

Honduran Foreign Secretary Edgardo Paz Barnica requested Salvadoran Foreign Minister Fidel Chavez Mena to use his good offices with the appropriate authorities to investigate this matter, and asked that the guilty persons be punished accordingly and that appropriate orders be issued to prevent a repetition of the incident.[*/]

Meanwhile, an incident relating to Nicaraguan refugees in Honduras indicates the limits of the Honduran government's capacity to protect refugees.

[*/] Tegucigalpa Televisora Hondurena June 21, 1983.

The U.N. High Commissioner for Refugees (UNHCR) has ordered the immediate relocation of Nicaraguan refugees from the Las Trojes area of Honduras. Colonel Abraham Garcia Tucios, coordinator general of the Honduran National Refugee Commission, said that the Las Trojes refugee situation is "unsafe, and the unsanitary conditions in which the refugees are living are deplorable." Las Trojes is a small town on the Nicaraguan border that has been abandoned by most of its Honduran residents due to the constant clashes between Nicaraguan troops and anti-sandinistas that take place there.*/

Meanwhile, the Honduran Defense Secretary has indicated that "There are certain security problems" caused by refugees, and that "sometimes we lose control over the refugees and they suddenly get into trouble."**/ Whether this suggests official Honduran concerns for the safety of the refugees, or a concern that refugees themselves pose a security risk, the conclusion to be drawn remains constant: viz. refugees in Honduras remain extremely vulnerable.

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*/ ACAN Radio, Panama July 4, 1983.

**/ Tegucigalpa Voz de Honduras Network June 2, 1983.

Specific incidents of violence and harassment affecting Salvadoran refugees and Honduran relief workers in Honduran refugee camps

Detailed information on violent incidents is difficult to obtain. International agencies such as the Red Cross and the U.N. High Commissioner for Refugees (UNHCR), fearing to jeopardize their capacity to assist, are reluctant to respond publicly in cases of violent attack. Most of the information that is available is in the form of field reports from private voluntary agency personnel.

The international agencies and the private agencies agree on one important point: the security of the refugees in Honduras has been threatened in the past and may be again in the future. The UNHCR has acknowledged that a wave of attacks occurred in March 1982. Since then, other incidents have been reported in which refugees have been harassed, abducted or physically abused.

Honduran employees of CARITAS, the international Catholic relief agency, are especially at risk. Government statements denounce CARITAS in the press, and relief workers disappear with regularity.

The specific incidents listed below illustrate that the international community is unable to devise an effective plan for the protection of refugees in Honduras, even though the problem is a longstanding one, and attempts have been made to address it in various ways.

General

a. Honduras has permitted the entry of many thousands of refugees, including Salvadorians, Guatemalans and Nicaraguans. However, there were reports of Salvadorian-Honduran combined troop action in which hundreds of Salvadorians were killed inside El Salvador as they tried to reach refuge in Honduras (see El Salvador entry).

During 1982 the Honduran Government and the United Nations High Commissioner for Refugees (UNHCR) cooperated to move Salvadorian refugees inland and away from the border. However, the UNHCR representatives were hindered on occasion by the Honduran security forces in their efforts to meet arriving refugees and assist them to safety in Honduras. Amnesty International continued to receive reports of Salvadorian refugees being harassed and abducted from camps and settlements inside Honduras by Salvadorian military and paramilitary forces, acting on some occasions with the apparent cooperation or complicity of their Honduran counterparts. On 2 March 1982 seven bodies were discovered near the hamlet of Guajiniquil by other refugees. They were later found to have been refugees who resisted relocation inland, to Mesa Grande, San Marcos de Ocotepeque, Honduras. They had decided to return to El Salvador, but were reportedly killed by Honduran soldiers and Salvadorian National Guards.

Amnesty International Report, 1983, Pg. 148.

b. The fate of two other groups of foreign nationals, many of them Salvadorian, who "disappeared" in Tegucigalpa in 1981 remained unclarified despite renewed appeals during 1982 for information. In both cases eye-witnesses interviewed by Amnesty International confirmed the arrest of the detainees, and in both cases children who were among the detained were later placed in the care of others by officials.

During 1982 Amnesty International appealed on behalf of other foreign nationals, some living in Honduras, others merely travelling through, who had "disappeared". In the cases of several "disappeared" Costa Ricans and Nicaraguans documents were available showing the exit of the missing people from countries adjacent to Honduras. However, Honduran officials continued to deny that they had entered Honduras, even in cases where witnesses attested to having seen the missing people in Tegucigalpa, or to having spoken to them in custody in Honduras.

In March Salvadorian-born U.S. resident Ramon Cardona was arrested by Honduran immigration police while in transit in Toncontin airport in Tegucigalpa. He was apparently arrested on the basis of his possession of publications including the British magazine The Economist which showed Salvadorian guardsmen on its cover. Ramon Cardona testified that while in custody he had been threatened with being turned over to the Salvadorian authorities and warned that he would be tortured in such a way that no marks would be left. He told of being confined in a small wooden box in which he was unable to stand, and of the use of electric shocks during interrogation. Ramon Cardona was released after some 72 hours in detention in a secret jail just minutes before a delegation from the U.S.A. arrived in Honduras on his behalf.

Amnesty International Report, 1983, Pp. 149-150.

c. Honduran and foreign workers assisting Salvadorian and Guatemalan refugees suffered human rights violations during 1982. A foreign mission of inquiry happened to visit the town of El Amatillo on the same day in January 1982 that Honduran soldiers had entered. The mission reported that it had interviewed witnesses who said that the soldiers had ill-treated three campesinos (peasants) including beating them with rifle butts. One of the peasants, Goyo Reyes, was taken to the military barracks at La Virtud where he was beaten on the back with a machete and accused of aiding the guerrillas with food. Goyo Reyes was a member of the local committee of the international Catholic relief agency CARITAS that aids Salvadorian refugees with food and medicine. Photographs taken on 7 January 1982, the day of his release, show wounds and bruises on his back consistent with his allegations.

On 12 March Marcario Ramirez Rodriguez, another CARITAS worker, presented himself at the military barracks at the border refugee camp of La Virtud on the orders of the commanding officer. Two priests who went that evening to inquire about him were told he was in detention. Later, between two and three a.m., he was seen being taken by soldiers to the village of La Cuesta. Amnesty International appealed for information as to his whereabouts, but there was no further news of him. At the time of his arrest there was a great deal of military activity around La Virtud, involving both Honduran and Salvadorian troops. On the day that Ramirez "disappeared" Salvadorian refugee Vicente Alfaro was reportedly detained in the same area by Honduran soldiers, savagely beaten and tortured in the presence of witnesses, then thrown into the Mocal river.

In June Amnesty International appealed for information concerning the whereabouts of Dr. Oscar Giron, a Guatemalan doctor who was visiting Honduras in connection with refugee work. He was detained on 9 June 1982 by four uniformed Honduran soldiers and two armed civilians in the El Tesoro refugee camp for Guatemalans, near Copan. Also arrested was a nurse from the U.S.A. In testimony made available to Amnesty International after her release several days later, the nurse stated that she had heard Dr. Giron moaning as he was beaten by his abductors. She told how they were both forced to go down into a ravine where Dr. Giron's body was discovered on 6 July. The witness believed that the men who abducted Dr. Giron and herself belonged to a small Honduran army detachment patrolling the northern border. During the days she spent in custody in San Pedro Sula, she several times overheard reference to the 12th Batallion of Santa Rosa de Copan.

On 26 July four more people working with refugees, in this case Salvadorians,"disappeared" in Tegucigalpa. One had allegedly been threatened earlier by a member of the security unit Direccion Nacional de Investigaciones (DIN), National Directorate of Investigations. It was subsequently reported that all four had been tortured in custody. The DIN was also cited as responsible for the death of a young Nicaraguan, Lilian Soto Ulloa, in April 1982. She was pregnant and reportedly aborted under torture. DIN agents then allegedly threw her into the street; she died some hours later in a hospital.

Amnesty International Report, 1983, Pp. 150-151.

Mesa Grande Camp.

1. Harassment.

a. "There were occasional gunshots in Mesa Grande, for no apparent reason."

"A group of refugees had tried to go fishing at a nearby river and were stopped and questioned for some time but eventually returned unharmed."

A plan for growing corn was started in Mesa Grande, "only to be aborted because of harassment by the Honduran military. The land chosen for the planting was a distance from the camps, and ACNUR felt it was not worth the risk."

"Report on a visit to the Salvadoran refugee camps in Honduras," March 13-27, 1983, American Friends Service Committee, (hereinafter "AFSC").

b. ". . .one way we visitors could make ourselves particularly useful was to accompany the refugees who go out to collect firewood. If an international does not go with the refugees, then the Honduran military harasses or abuses them."

"Report on a visit to Mesa Grande refugee camp," Jan. 18-27 1983, AFSC.

c. "On December 17, twelve Honduran soldiers, including the lieutenant in charge at Mesa Grande, entered camp 6 with the intent of searching a particular tent . . . the tent was searched . . . [with agency person present] thirty minutes later, the soldiers left the camp, leaving in their wake the expected tension and feelings of intimidation on the part of the refugees."

"Report on a visit to Salvadoran refugee camps in Honduras," Dec. 10-27, 1982, AFSC.

d. "The two major problems are security and water. . . . everyone expresses anxiety about the military presence, the total lack of freedom and the fear of the soldiers."

"Report on a visit to Salvadoran refugees in Honduras," Nov. 16-29, 1982, AFSC.

2. Infiltration.

". . . as we were talking a man and a woman approached and stood by the door of the chapel. He wore sunglasses and had a camera. She had a guitar. Our friend said they were evangelists and were invited to the camps. He and the refugee stopped talking freely and became nervous. We asked if the evangelists made him nervous. Yes, he said, and told us that the security in the camps was not good. He left us, apologizing."

"Report on a visit to Mesa Grande refugee camp," Jan. 18-27, 1983, AFSC.

3. Abductions.

a. "Many people mentioned the man who was abducted by the army on January 2, 1983."

"Others mentioned a woman who disappeared in San Marcos in November."

"Report on a visit to Mesa Grande refugee camp," Jan 18-27, 1983,

b. "We . . . need more international support here in the camps because there is always repression and sometimes they capture us or make us disappear."

Letter from the refugees of Mesa Grande to the Pope, Jan. 17, 1983.

c. Three refugees had been abducted by the Honduran military within the previous two weeks:

On November 25, Juan Ramon Cruz was detained by the Honduran authorities, tortured, held for four days, and released without his identification papers. His whereabouts are not known;

On December 19, Jose Santos Varela was picked up by Honduran authorities in Santa Rosa (he was visiting the town in the company of staff from Mesa Grande), tortured, held for four days, and released with his documents. He returned to Mesa Grande and was fearful that he was marked for elimination;

A third refugee, Milagros Munoz, was detained by the Honduran lieutenant at the entrance/exit to Mesa Grande as she attempted to leave to visit the town of Saint Marcos. She was reported carrying three distinct sets of identification. According to a report recently received from Mesa Grande, she was deported to El Salvador. ". . . there is ongoing harassment from the Honduran military."

"Report on visits to Salvadoran refugee camps in Honduras," Dec 10-27, 1982.

d. "Heavily armed soldiers walk through the camp day and night; harass women and children who go down to the stream to bathe and wash clothes; and generally terrorize the population by their constant presence."

"Three men were picked up at the stream where they were gathering firewood two days before my arrival. They were taken to the command post, beaten, and held for several hours before they were released."

"Report on a visit to Salvadoran refugees in Honduras." Nov. 16-29, 1982, AFSC.

4. Beatings.

a. "Many people brought up one of a number of incidents in which someone had been beaten by the Honduran army."

"Report on a visit to Mesa Grande refugee camp," Jan. 18-27, 1983, AFSC.

b. ". . . a similar search was made on December 23 and several drunken soldiers entered Camp 1 on Christmas eve and beat up several refugees."

"Report on a visit to Salvadoran refugee camps in Honduras, Dec. 10-27, 1982, AFSC.

Colomoncagua Camp

1. Harassment.

a. "Soldiers ride into the camp with most of the food distribution and firewood trucks and observe the unloading and storage. Soldiers walk frequently through the camps and the hills above and look into the tents and workshops at will."

"We were told of one shooting incident on November 4, in which soldiers fired two shots over the heads of people in Callejones campamento [one of the camp sections] . . ."

> "Report on visits to Salvadoran refugees:", Oct. 30 to Nov. 11, 1982, AFSC.

b. "[One rule was] the imposition of a 25 meter camp limit. As a result, the cornfields planted by the refugees had to be abandoned. Refugee men were prohibited from going to the river to bathe or collect drinking water. They were told to 'drink the water that the pigs bathe in.'"

> "Colomoncagua" El Salvador: Refugees in Crisis, (Salvadoran Humanitarian Aid, Research & Education Foundation) Nov./Dec. 1982 (hereinafter Share Bulletin).

c. "Soldiers are free and perhaps even encouraged to bully the refugees. Verbal threats are also frequent, at times supplemented with theatrical forms of intimidation. For example, groups of soldiers will appear and rush up as if to shoot the refugees. Having produced the panic they desire, they then stop and laugh. International relief workers told us stories of the mock battles held just at the edges of the camp."

"Regular military authorities take gangs of refugees from the camp to work on the public road that runs from Colomoncagua to La Esperanza. The refugees perform this work without compensation and against their will."

"Report on a visit to the refugee camps in Honduras," June 1982, AFSC.

d. "After [a visit by the relief agency workers] military and migration officials entered the camp to reprimand refugees for talking with international relief personnel and to issue the new order prohibiting movement among the camps."

Ibid.

e. "The security of the refugees in the camp is questionable. The Honduran soldiers are present all day at the entrance of the camp and regularly patrol inside the camps."

"Refugees cleared from Salvadoran/Honduras border," *Share Bulletin*, May/June 1982.

f. "Relief workers said that relocation of the camp from La Virtud to Mesa Grande has been carried out "in a climate of terror such as forcing them at gunpoint or cutting off their food supply..."

Ibid.

2. *Harassment by Salvadorans*.

"Last week, a car entered the camps with five men who were identified as members of the Salvadoran National Guard who were stationed at Arcatao."

Ibid.

3. Harassment of Refugee Protection Workers.

a. "The office of the U.N. High Commissioner for Refugees in Washington, D.C. confirmed that UNHCR protection officers have been denied access to the UNHCR refugee reception centers in La Virtud and Guarita."

"Colomoncagua," *Share Bulletin*, Nov/Dec 1982.

b. "Last April 12, the coordinator of CARITAS in La Virtud was kidnapped by DIN agents and tortured for three days."

Share Bulletin, May/June 1982.

4. Abductions.

a. ". . . the authorities detained an old man . . . elderly and fragile, the man was nevertheless transported to the local jail, beaten and tortured."

"Report on a visit to the refugee camps in Honduras," June 1982, AFSC.

b. "Refugees who have visited the nearest town . . . accompanied by members of the international relief organizations have been arrested and disappeared by members of the political police of Honduras (DIN)."

Share Bulletin, May/June 1982, *supra*.

5. Murders.

"In January of 1982, two men were given permission to go to the nearby town to purchase cigarettes . . . they never came back and their bodies were found a day later on the Salvadoran side of the border."

"Interviews with refugees and relief workers", Feb. 1982, AFSC.

La Virtud

Until the establishment of the refugee camp at Mesa Grande, the sole refugee facility was at La Virtud. The record of harassment and danger extends as far back as 1981, when Honduran politics was less dominated by the armed forces and by security concerns, and to other geographical locations than either Colomoncagua or Mesa Grande. This suggests the pervasiveness of the problems faced by Salvadorans in Honduras.

1. Harassment.

a. " . . . the medical center in La Virtud had been stoned and two masked men entered and threatened the personnel."

"On the same night, two explosions and machine gun fire shook the town causing great fear and tension."

"A few weeks ago, a CEDEN relief organization chauffeur driving a car . . . was forced out of the car and brutally tortured. . ."

"Report of a U.S. ecumenical delegation to Honduras", Oct. 17-23, 1981, AFSC.

b. "On the night of March 18, numerous soldiers entered the camp and fired their weapons at close range into the air. Shots were fired at night on several occasions and throwing rocks on the tents was another common practice."

Report from AFSC international observer, March 15-28, 1982, AFSC.

c. "On March 24, Honduran soldiers rushed into the camps telling Honduran vendors to leave, that the camp was to be attacked by Salvadoran soldiers . . . the refugees told me that such threats were often made against them . . ." Ibid.

d. The civilian paramilitary personnel at the camp "display lists of names of Salvadoran refugees to be assassinated. The military patrols enter the camp daily and terrorize people wit machinegun fire to the air above the camp on most nights. The U.N. officials have been unable to control these occurrences." Ibid.

2. Harassment by Salvadorans.

In November 1981, "some 40 Salvadorian National Guard and members of ORDEN entered Honduras and attacked 3,000 refugees in the camps of La Virtud, capturing 32 refugees before international observers caught their captors by surprise and secured the release of the refugees."

> Chronicle of persecution of Salvadoran refugees in Honduras: 1979-1982, SHARE, (Salvadoran Humanitarian Aid, Research and Education Foundation).

3. Harassment of Refugee Workers.

a. "In February 1981, Fausto Milla, a priest of the Diocese of Santa Rosa, was detained for five days in Tegucigalpa by the DIN after returning from an international forum in Mexico sponsored by the Salvadoran Human Rights Commission where he gave testimony of the situation of refugees in Honduras."

Ibid.

b. On November 13, 1981, the CARITAS house at La Virtud was searched by the Salvadoran National Guard and ORDEN. CARITAS was accused of having distributed boots to "guerrilla refugees," and two humanitarian workers were detained. On November 15, Honduran soldiers detained a refugee working with CARITAS in a hamlet near La Virtud, who was beaten and tortured without being told his crime. The same day, a Honduran staff member of CARITAS in a nearby hamlet was reportedly taken, interrogated and killed by the Honduran military. On November 16, the day the international observers managed to intervene in one abduction operation, seven refugees disappeared from hamlets around La Virtud.

> Report on Human Rights in El Salvador, Americas Watch/ACLU, 1st Supplement, Pp. 64-65.

c. On April 12 1982, Fernando Abrigo, CARITAS Coordinator in La Virtud, was picked up by the Honduran secret police. He was held captive in a clandestine jail in Tegucigalpa for four days, blindfolded, tied, deprived of food and water, and beaten while the Bishop of Santa Rosa de Copan tried to secure his release. On May 13, the Honduran military arrived at the CARITAS house in La Virtud with electronic detection equipment, searching both the house and warehouses. The same week a Honduran woman who had assisted the CARITAS relief program was murdered in unclear circumstances . . . .

> "Report of AFSC/National Council of Churches observer team of visits to Salvadoran and Guatemalan Refugee camps in Honduras", May 10, 1982, AFSC.

d. A report by CARITAS dated April 13, [1982] points to an intensification of threats, detentions and deaths in the La Virtud area since the end of February. The report notes that numerous Hondurans who had assisted the relief effort had received death threats, and several had been forced to leave the area.

> CARITAS Workers in La Virtud, Appui au Programme D'Observateurs au Honduras, April 13, 1982, cited in Americas Watch/ACLU, 1st Supplement, supra, Pg. 99.

4. Abductions.

a. ". . . suddenly, last March, events took a new turn. On the one hand, security problems became crucial in La Virtud, with raids into the camp and the kidnapping of refugees."

> "UNHCR coordinates international aid," Refugees, September 1982, U.N. High Commissioner for Refugees.

b. ". . . the introductions were broken by cries that two young men were being led away from the lower end of the camp by Honduran soldiers . . . the soldiers suddenly turned into the brush and made their way to the command post with the young men. . .

> Report from the AFSC international observer, March 1982, AFSC.

c. "Between November 15 and March 14, 1982, there were 22 killings and sixteen disappearances of refugees and Honduran CARITAS workers at La Virtud and nearby parts of Lempira province."

"The weeks of the most sustained killing took place in February and early March 1982, while the refugee program was in suspension . . ."

> "Report on a visit to refugee camps in Honduras", June 1982, AFSC.

d. Thirty Salvadoran soldiers marched across the somnolent plaza shortly before noon and entered the local Honduran military barracks. Minutes later, we were jolted by a message that the Salvadorans had entered the camp, which held 3,000 refugees, and were taking prisoners at gunpoint. The armed Salvadorans, some of them soldiers and others identified by refugees as members of the death squad known as ORDEN, were kidnapping twenty peasants. The ragged procession was being hurried toward the El Salvador border, two and a half miles away. There was no mistaking the soldiers' purpose. "Please don't let them take me away," cried a captive, his thumbs tied behind his bent back. "I don't want to die."

> Rusty Davenport, "Monitor Salvador's Border", New York Times, December 23, 1981. (See also, "Foreign Visitors Avert Kidnapping of Salvadorans," Washington Post, November 19, 1981.)

e. Among the incidents along the border, it reported the discovery of six corpses on March 2, two more on March 5, and three more on March 8. The third group was reportedly identified as refugees abducted by Honduran troops working with Salvadoran paramilitary personnel.

> Appui au Programme D'Observateurs au Honduras, supra.

5. Beatings.

"Several times while I was there refugees were seized who had strayed too close to the borders of the camp . . . One eighty-year old man was seized . . . he was punched several times. . ."

> "Report from the AFSC international observer", March 1982, AFSC.

The Dangers of Crossing the Border

The Honduran and Salvadoran armed forces attack fleeing refugees. On at least two occasions, the two forces attacked simultaneously in a "pincer" operation in which hundreds of refugees died. Few international observers are allowed near the border crossing areas. The closest camp to the border is Colomoncagua; it provides initial refuge, but it is scheduled to be moved inland soon. Refugee relief workers fear that plans to move the camp indicate the first steps in sealing the border and preventing future refugee movements.

1. "It is necessary to have seen the ambiguous frontier zone where two armies, the guerrillas, civilians and international observers are all rubbing shoulders. It is necessary to have felt the precariousness of the border . . . life is being played out on this line of hills . . . where border guards practice on human targets . . .

> "Impressions on the spot," Philippe Boggio,
> Le Monde as quoted in Refugees Magazine,
> U.N. High Commissioner for Refugees, Geneva, Sept. 1982.

2. Massacre at the Lempa River

a. ". . .in March, 1981, heavy fighting in the north of Salvador caused thousands of civilians - in Cabanas province - to flee into Honduras, this time across the Lempa River. . ."

b. " A U.S. field worker for CARITAS, and other foreign aid workers, doctors, priests and nuns who were in the area at the time of the Lempa River incident told Amnesty how they were attacked by helicopters as they tried to carry refugees across the river . . . 'the helicopters tried to systematically massacre us all. . . riveting the river, up and down both shores, with machine-gun fire . . .'"

c. "Another witness, who told AI that that most of the Salvadorian refugees killed were women and children said, ' when they arrived at the Rio Lempa . . . they were met by strong fire from machine-guns, bombs from a helicopter and a hail of mortar fire.' Two hundred people were estimated to have been killed in the attempted crossing."

"Killings at the Lempa River," Amnesty International Newsletter, March 1982.

3. Massacre at Sumpul River.

a. "'We were attacked from all sides. Two olive green helicopters attacked us from the air and more than 500 National Guard blocked all exits . . . more than 25 people were machine-gunned...'"

b. "Honduran troops allegedly blocked the way. . ."

c. "Those who died were part of a group of thousands of campesinos from the department of Chalatenango who had been pursued for several days by the Salvadorian National Guard, regular army soldiers and members of ORDEN."

d. ". . .the evidence painstakingly collected by local priests was that atrocities had been perpetrated against non-combatant civilians, the majority of them women, children, and old people. The priests said at least 100 children, 150 women, 50 elderly people and 25 older men and boys had been among the refugees who died trying to cross the Sumpul River. According to the priests' survey, the number of deaths approached 600."

> "Fleeing Salvadorians killed at Sumpul River", Amnesty International Newsletter, March 1982.

After these incidents, the U.N. High Commissioner for Refugees obtained permission to safeguard border crossing points by having a man on a horse wave a white flag in the area of the secure crossing point.

4. "The Salvadorans fleeing the war had already found out that we were waiting for them on the other side . . . They grouped together to cross over in greater security. The first refugees who entered La Guarita - about sixty altogether - had walked for 15 days to cross at the exact point we were positioned.

a. "It was not unusual for the 'roving officers', when they approached the border posts . . . to see 100 to 250 persons suddenly emerge . . .

> "UNHCR coordinates international aid", Refugees Magazine, U.N. High Commissioner for Refugees, Sept. 1982.

5. "The fears of the refugees at Colomoncagua are not idle ones. Honduran military presence is stronger there than in either of the other two camps we visited. The camps at Colomoncagua are within kilometers of Morazan province in El Salvador, much of which is in rebel hands. (During our stay, we learned that Salvadoran government troops had launched a major unsuccessful offensive in Morazan.) Honduran military authorities have established a border military zone in the area around Colomoncagua. About 80 troops reside in the town. The army has

heavy artillery between the refugee camps and the border. None are allowed to cross that space. The authorities have established a curfew in the town after nine p.m."

> "Report on a visit to refugee camps in Honduras," Arthur Schmidt, Latin America Panel, American Friends Service Committee., June 1982.

Guatemala

Conditions in Guatemala constitute such a danger to Guatemalans that it can hardly be realistic to expect Salvadorans to find safety there. Indeed, Guatemalans have fled in significant numbers to Mexico. It is reasonable to assume that a state of insurgency, which has compelled Guatemalans to flee their country, will not provide a safe environment for Salvadorans. The present situation may be summarized as follows:

The military continues its attacks against the civilian population, and especially against the peasant, Indian population.

The military continues to bomb the peasants' villages, crops, and forests, near their settlements in the city of Patzun, Chimeltenango department, and in the areas surrounding the volcanoes Santiaguito, Zunil, and Santa Maria, all in the Department of Quetzaltenango. These areas are heavily populated.

Large, combined forces of soldiers and policemen continue their organized searches of persons, vehicles and homes. Such searches have resulted in many arbitrary arrests.

Forces in support of the government continue their assassinations of persons perceived as opposed to the government.

The government continues to displace the peasants from their home areas, and forces them to live in crowded areas more easily watched by the military and the security forces. */

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*/ Human Rights Commission of Guatemala, Information Bulletin, June 21, 1983.

1. 250,000 Guatemalans are displaced.

Department of State Country Reports on the
World Refugee Situation, 1983.

2. ". . . since the beginning of 1981 we had heard of repeated army incursions and massacres . . .at the same time, people continued to be kidnapped in the county seat and many others captured as they were going or coming from the coast in buses."

"Testimony of Nicholas Balaam," Guatemala
Human Rights Commission/U.S.A., Jan. 11, 1983.

3. ". . . The country is in a state of siege since July 1982. . ."

ibid.

4. "Revolution has stripped Guatemalan politics to the essentials: for the right, guarding the guerrillas; for the left, destroying the army and getting control of the economy. . ."

Allan Nairn, "Choices on Guatemala," The New
York Times, April 4, 1983.

Information about the condition of Salvadorans in Guatemala is difficult to obtain, but what little is available indicates grave danger:

5. "Salvadoran refugees in Guatemala are treated as subversives."

"Status of Refugees in Guatemala and Mexico,"
Jim Corbett, refugee relief worker,
Congressional briefing statement, June 9,
1983.

6. "Anyone found traveling in Guatemala without proper traveling documents is considered to be subversive and is usually shot on the spot."

Personal communication from Jim Corbett, June 1983.

7. "While transiting through Guatemala, the authorities took away my travel documents and I was forced to land in El Salvador airport without any documents."

Testimony of a refugee returned from Mexico to El Salvador, published by El Rescate-Nova, June 9, 1983.

Mexico

In the summer of 1983, the Mexican government instituted strict statutory regulations on the issuance of visitor's visas to refugees from Central America (since Mexico does not recognize Guatemalans and Salvadorans as refugees, they must enter on a 90-day visitor's visa), and moved 100 immigration agents into the Chiapas area. It has also revamped its refugee bureaucracy. [*]

The untenability of the refugee condition in Mexico is indicated by recent reports that Guatemalans have started entering the state of Yucatan in Mexico, since the State of Chiapas, the traditional location of refugees, is already saturated. A Mexican radio broadcast reports that

> "It is now impossible to live in Guatemala because of the political and social conflicts and the decrees of the military government, which force inhabitants to leave their homes in search of safety, the refugees told the press.
>
> The Guatemalans along the Chiapas border are entering Mexican territory through Quintan Roo, because it is difficult for them to get help from the inhabitants of Chiapas who are also needy.

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[*] The head of the Commission to Aid Refugees was asked to leave his post and responsibility for the Commission has been transferred to the head of the Migratory Authority. Essentially, this means that the Refugee Commission has been abolished in favor of a much stricter policy toward refugees, one which treats Central Americans much like any other immigrants. Uno Mas Uno, Mexico City, June 22, 1983.

> Moreover, the state of Chiapas is under the constant vigilance of the army, which is on the lookout for guerrilla incursions, so the possibility of getting arrested or shot to death is almost the same as in Guatemala."*/

See also the following sources:

1. "The Mexican government has taken steps to stem the flow of Central American refugees, arguing that they have taken jobs away from Mexicans and added to social pressures here."

"The new measures include far stricter rules for issuing visas, increased patrols along the border, and a change of emphasis in the Government's refugee commission from coordinating aid to closer monitoring of refugee activities."

> "Mexico Moves to Stem Refugee Flow," New York Times, June 22, 1983.

2. "Almost all of the refugees fall into a system of exploitation. They are afraid of any authority; they have minimal economic resources."

"Their employers pay less, demand more and threaten the refugees with deportation."

"Open and clandestine deportation has been going on for years . . .we can expect more deportations and more extortion and corruption.. . ."

"85-90% of the refugees in Mexico are Salvadorans, the rest are Guatemalan . . ."

> "Centroamericanos en Mexico," Uno Mas Uno (Mexico City), May 28, 1983.

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*/ Notimex, Mexico City, 5 July, 1983.

3. There are estimated to be 20,000 refugees from Salvador in the Mexico City metropolitan area." Ibid.

4. "So many Salvadoran refugees are being exploited and forced into prostitution that many red light districts in Mexico are becoming Central American ghettos."

Jim Corbett, Congressional Briefing, June 9, 1983.

5. Most Salvadorans entered Mexico illegally or they carried a legitimate Migratory Form #8, which is a visitor's permit for 90 days. (Under the new guidelines, a Salvadoran must show proof of income or economic self-sufficiency to get the FM #8).

"Centroamericanos en Mexico," Uno Mas Uno, May 23, 1983.

Appendix III

Persons Returned from the United States and Subsequently Killed or Disappeared in El Salvador

1. Jose Humberto Santacruz Elias

   Deported January 15, 1981.

   Disappeared upon arrival.

2. Santana Chirino Amaya

   Deported June 1981.

   Found tortured and decapitated near his home in San Vicente, El Salvador, September 6, 1981.

3. Victor Walter Garcia Ortiz

   Deported September 1980.

   Killed, following an encounter with the National Police, November 1981.

4. Jose Enriquez Orellano

   Deported October 1982.

5. Octavio Osegueda

   Returned to El Salvador July 12, 1983. Killed at behest of Municipal Police Inspectors, July 13, 1983.

6. Affidavit of Jose Rosales.

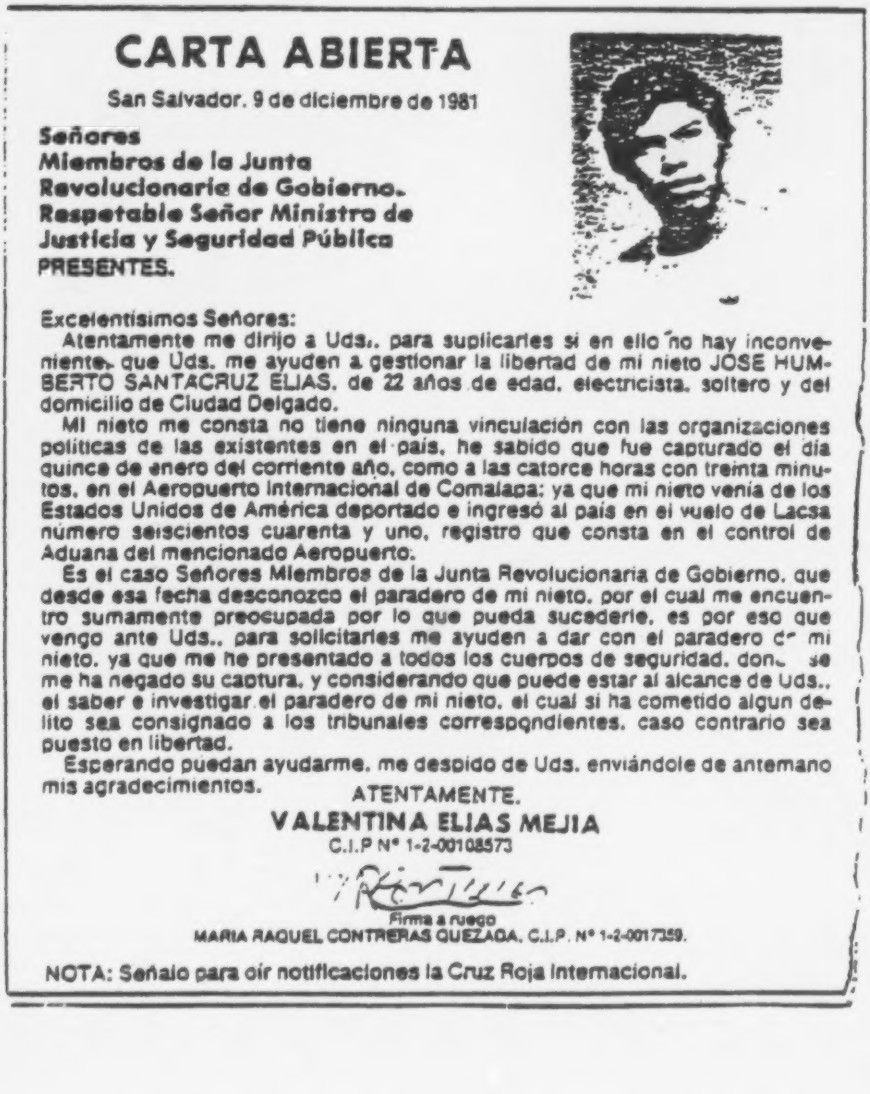
Original Documents may be inspected at CARECEN, the Central American Refugee Center, Suite 103, 1801 Columbia Road, N.W., Washington, D.C. 20009.

1. Jose Humberto Santacruz Elias

Disappeared 1981

EL DIARIO DE HOY

DECEMBER 9th. 1981



CARTA ABIERTA

San Salvador. 9 de diciembre de 1981

Señores
Miembros de la Junta
Revolucionaria de Gobierno.
Respetable Señor Ministro de
Justicia y Seguridad Pública
PRESENTES.

Excelentisimos Señores:

Atentamente me dirijo a Uds., para suplicarles si en ello no hay inconveniente, que Uds. me ayuden a gestionar la libertad de mi nieto JOSE HUMBERTO SANTACRUZ ELIAS, de 22 años de edad, electricista, soltero y del domicilio de Ciudad Delgado.

Mi nieto me consta no tiene ninguna vinculación con las organizaciones políticas de las existentes en el país, he sabido que fue capturado el día quince de enero del corriente año, como a las catorce horas con treinta minutos, en el Aeropuerto Internacional de Comalapa; ya que mi nieto venía de los Estados Unidos de América deportado e ingresó al país en el vuelo de Lacsa número seiscientos cuarenta y uno, registro que consta en el control de Aduana del mencionado Aeropuerto.

Es el caso Señores Miembros de la Junta Revolucionaria de Gobierno, que desde esa fecha desconozco el paradero de mi nieto, por el cual me encuentro sumamente preocupada por lo que pueda sucederle, es por eso que vengo ante Uds., para solicitarles me ayuden a dar con el paradero de mi nieto, ya que me he presentado a todos los cuerpos de seguridad, donde se me ha negado su captura, y considerando que puede estar al alcance de Uds., el saber e investigar el paradero de mi nieto, el cual si ha cometido algun delito sea consignado a los tribunales correspondientes, caso contrario sea puesto en libertad.

Esperando puedan ayudarme, me despido de Uds. enviándole de antemano mis agradecimientos.

ATENTAMENTE.

VALENTINA ELIAS MEJIA

C.I.P Nº 1-2-00108573

Firma a ruego

MARIA RAQUEL CONTRERAS QUEZADA, C.I.P. Nº 1-2-0017359.

NOTA: Señalo para oír notificaciones la Cruz Roja Internacional.

OPEN LETTER
El Diario de Hoy
December 9th, 1981
San Salvador, El Salvador

Sirs
Members of the Revolutionary
Government Junta.
Honorable Minister of
Justice and Public Security

Honorable Sirs:

I respectfully write to you, to plead if there's no inconvenience, that you assist me in obtaining the freedom of my grandson JOSE HUMBERTO SANTACRUZ ELIAZ, 22 years of age, electrician, single and a resident of Ciudad Delgado.

My grandson, I am certain does not have any relation with the existing political organizations in this country, I have known that he was captured on January 15 of the current year, at approximately 2:30 p.m. at Comalapa International Airport. It is a fact that my grandson was being deported from the United States and he entered this country on LACSA flight number 641, as it is shown by the records at the Customs Offices of the above mentioned airport.

It is such, members of the Revolutionary Government Junta, that since that date I don't know the whereabouts of my grandson, which makes me extremely worried for what might happen to him. That is why I come to you, to ask your help in finding the whereabouts of my grandson since I have already gone to all the security forces garrisons and offices, and they have all denied his capture, and furthermore, considering that it may be within your power to investigate my grandson's whereabouts, and if he has committed any crime I ask fc him to be taken to the corresponding courts or if innocent, that he be freed.

On the hope that you can help me, I express my gratitude to you beforehar

Sincerely,

Valentina Elias Mejia
I.D. 1-2-00108573

signed upon request by,
Maria Raquel Contreras Q.
I.D. 1-2-001753

Note: I appoint the International Committee of the Red Cross to carry the response to this letter.

Translation's certification:
I, Patrice Perillie, do hereby swear that the above is a true and correct translation of the Spanish original, and that I am competent to render such translation. Signed in Washington, D.C., this 25th day of October, 1982.

Patrice Perillie

2. Santana Chirino Amaya

Decapitated 1981

UNITED STATES OF AMERICA
DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

WARRANT OF DEPORTATION

No. A22 225 099

To any Officer or Employee of the United States Immigration and Naturalization Service.

After due hearing before an authorized officer of the United States Immigratio and Naturalization Service, and upon the basis thereof, an order has been duly made that the alien Santana CHIRINO-Amaya

who entered the United States at Laredo, Texas

on or about the 20th day of February, 1981, is subject to deportation under the following provisions of the laws of the United States, to wit:

Section 241(a)(2)

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his direction, command you to take into custody and deport the said alien pursuant to law, at the expense of the Appropriation, "Salaries and Expenses, Immigration and Naturalization, 1981", including the expenses of an attendant, if necessary

Signature:

Title: DISTRICT DIRECTOR

Date: JUNE 10, 1981

Place: WASHINGTON, D.C.

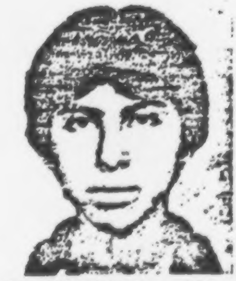
Form I-205
(Rev.11-29-79)N

30¢

El Diario de Hoy

AUDITADO POR
Domingo 131.216
Diario 112.305
Trimestre Enero/Marzo/81
(Publisher's Statement)

48 Págs. Año XLIV. N° 15398 San Salvador, El Salvador, Martes 1° de Septiembre de 1981. N. VIERA ALTAMIRANO-Fundador



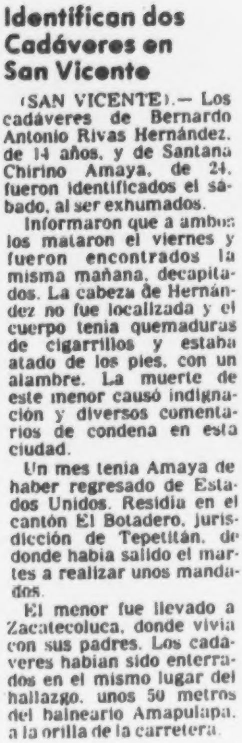
DECAPITADO.— (Zacatecoluca). Bernardo Antonio Rivas Hernández, de 14 años, fue encontrado decapitado en la calle al Balneario Amapulapa, San Vicente.

DECAPITATED. (Zacatecoluca). Bernardo Antonio Rivas Hernandez 14, years of age was found decapitated on the street of a bathing resort in Amapulapa, San Vicente.

MUERTO.— (Zacatecoluca). Santana Chirino Amaya, de 24 años, fue encontrado decapitado cerca de Amalupapa, San Vicente. Era originario de esta ciudad.

DEAD.- (Zacatecoluca). Santana Chirino Amaya, 24 years of age, was found decapitated near Amalupapa, San Vicente. He was originally from that city.

LA PRENSA GRAFICA
September 1, 1981



Identifican dos Cadáveres en San Vicente

(SAN VICENTE).— Los cadáveres de Bernardo Antonio Rivas Hernández, de 14 años, y de Santana Chirino Amaya, de 24, fueron identificados el sábado, al ser exhumados.

Informaron que a ambos los mataron el viernes y fueron encontrados la misma mañana, decapitados. La cabeza de Hernández no fue localizada y el cuerpo tenia quemaduras de cigarrillos y estaba atado de los pies, con un alambre. La muerte de este menor causó indignación y diversos comentarios de condena en esta ciudad.

Un mes tenia Amaya de haber regresado de Estados Unidos. Residia en el cantón El Botadero, jurisdicción de Tepetitán, de donde habia salido el martes a realizar unos mandados.

El menor fue llevado a Zacatecoluca, donde vivia con sus padres. Los cadaveres habian sido enterrados en el mismo lugar del hallazgo, unos 50 metros del balneario Amapulapa, a la orilla de la carretera.

Two Cadavers are Identified in San Vicente

The corpses of Bernardo Antonio Rivas Hernandez, 14 years of age, and that of Santana Chirino Amaya, 24 years of age, were identified on Saturday, when the corpses were exhumed.

Information was given that both were killed on Friday and were found the same morning, decapitated. The head of Hernandez was not located and the body had cigarette burns and the feet tied together with wire. The death of the younger caused indignation and various comments of condemnation in this city.

Amaya had returned from the United States one month ago. He resided in the region El Botadero, jurisdiction of Tepetitan, from where he had left Tuesday in order to run some errands.

The younger one was taken to Zacatecoluca, where he lived with his parents. The corpses had been buried in the same place of discovery, some 50 meters from the bathing resort Amapulapa, at the edge of the highway.

El Rosario 15 de Septiembre /81

Señora:
Ernestina de Chirinos.
Arlington Va 22206

Querida Comadre

Le saludo por medio de la presente y le pido a Dios que le dé resignación por lo ocurrido y después le digo lo siguiente

Comadrita nosotros nos encontramos bien, lo único que hemos sentido el alma la muerte de Santanita, le hemos hecho los nueve días aquí en la casa y espero que no le sirva de dolor pues le tomamos unas fotos al altar del último día y se las mando para que las vea, que el altar lo hizo su amiga

y le manda muchas saludes.

Comadre yo he recortado lo que salió en el periódico y se lo mando también no tome a pecho las cosas pues así como está el tiempo todos esperamos que se nos llegue el día, en la próxima carta le mandaremos unas fotos de Santanita que todavía no las han dado pues serán en grande.

Y sin más que decirle saludos para todos ustedes y de todos nosotros. También le suplicamos nos haga el favor de conseguirnos la dirección de Freddy y de Berta le agradecemos mucho

Su comadre y su compadre
que mas quisieran verlo que escribirle.

Letter from a Family Member*

El Rosario, September 15, 1981

Dear Comadre:

I greet you through this letter and ask God to give you resignation for what happened. After this I will tell you the following.

Comadrita, we are all well, the only thing is that we have felt deep in our souls the death of Santanita. We have done the nine days of prayers here at home and wish you not to suffer because I took pictures at the altar the last day. I am sending them to you so you can see them. The altar was set up by your friend Angela , who sends you her regards.

Comadre, I have cut out what the newspaper printed about the case and I am also sending it to you. Do not take too deeply the things said because these are how times are now here, we all expect that our final day is coming. In my next letter we will send you other pictures of Santanita that have not yet been developed since they are being enlarged.

I have no more to tell you at the present time. I send you all our regards. Also we beg you to send us Freddy s and Berta's address, we would be very grateful for it.

Your Comadre and Compadre who wish more to see you than to write to you.

---

*The names have been deleted to protect the identity of individuals still residing in El Salvador

INSPECCION JUDICIAL*

En el Cantón Dos Quebradas, jurisdicción de San Vicente, a las once horas del día veintiocho de agosto de mil novecientos ochenta y uno. Constituido el infrascrito Juez, asociado del Secretario que autoriza, con el objeto de practicar inspección en el lugar en que se encuentran los cadáveres de dos personas desconocidas, se procedió a ello dando el resultado siguiente: ""los cadáveres se encuentran a doscientos metros - al Poniente del portón principal del Balneario Amapulapa y al costado Norte de la carretera que conduce a dicho lugar, en medio de dos árboles de Maquilishuat, el primer cadáver es de una persona como de veintiseís años de edad, color blanco, pelo castaño, ojos amarillos, de regular contextura física y como de un metros setenta y cinco centímetros de estatura, viste calzoncillo blanco y tiene la cabeza hacia el Sur - y los pies hacia el Norte, presentando señales de tortura en el cuerpo y casi decapitado por arma cortante, teniendo además múltiples lesiones de arma cortante en la espalda y atados los pies con un alambre eléctrico, a dos metros al Poniente de este cadáver se encontró el cadáver de un niño como de doce años de edad, color moreno, cuyo cuerpo se encuentra completamente decapitado y tambien presenta señales de tortura en el cuerpo. Se revisó el lugar minuciosamente y no se pudo encontrar la cabeza del cuerpo del segundo cadáver.- El lugar es solo por - lo que no hay vecinos inmediatos. Se hace constar que dichos cadáveres no fueron identificados a pesar de haberlos visto los trabajadores de- Turicentro, a quienes se les ordenó su enterramiento. No habiendo mas que hacer constar se da por terminada la presente acta que firmamos.--

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* Titulo para identificacion solamente. Los subrallados son nuestros.
Title is for identification purposes only. Emphasis added.

3. Victor Walter Garcia Ortiz

Killed 1981

AFFIDAVIT OF LUIS ANTONIO GARCIA ORTIZ

A26 504 505

I, Luis Antonio Garcia Ortiz, do hereby swear that the following statements are true and correct to the best of my knowledge and that I have been read this statement in Spanish and fully understand and ascribe to its contents, under penalty of perjury.

1. I, Luis Antonio Garcia am a 23 year old native citizen of El Salvador from San Miguel , San Miguel. My family were small businessmen in the marketplace in San Miguel where we own a small home.

2. One December Sunday in 1977, I was at the afternoon movie at the El Mundial theatre with some friends. As I was leaving the theatre, soldiers from the Salvadoran Army apprehended me, tied me up and placed me in their waiting pick-up truck. When the truck was full of young men like myself, they transported us to the military outpost in the city where we remained five days. Before I could contact my family we were taken to the military headquarters in Sonsonate for about five months of training, and then back to the Third Infantry Brigade of San Miguel where I served until my term was over on March 31, 1979. The events transpired so fast that there was no way to call family and friends for assistance to escape this involuntary conscription into the Salvadoran Army.

Towards the term of my service, the war in El Salvador began to build up and we were being called into military actions more often. We would shoot under orders of our superiors but, the majority of us would shoot into the air or off to the side to avoid killing anyone. We had no choice. When my term was over, I did not want to be forced to join the National Guard or Police or the"patrullas civiles", as all the former military men were obliged to join. Thus, I bagan to make plans to leave El Salvador and did so on April 1979, about one month after my term expired.

I have a cousin Jaime Garcia Jovel who had to flee El Salvador because he was threatened by the National Police for his active participation in the Social Democratic Party (PCN) in El Salvador. Jaime agreed to help me out so I headed for Los Angeles. I remained 2 or three months in Los Angeles until my Aunt, Mercedes Roja, who is a permanent resident, sent me the plane fare to come to Washington, D.C. I was anxious to find employment as I had left behind my younger brother Walter, and feared that he too would be forced into the Army and kidnapped off the street as I was. He wrote to me that he was very afraid of this because the military situation in El Salvador was becoming more dangerous by the day.

3. My greatest fears were realized when my Aunt Julia called me and told me that Walter had been kidnapped by the military. Friends of the family had witnessed his kidnap and so, luckily, word got through to our family and my Aunt Julia was lucky enough to free him with the help of some family friends. By the time she got to him, they had already shaved his head in preparation for his transport out of San Miguel. My family immediately began to make arrangements for Walter to escape. He was only 17 years old so we decided the best thing for him would be to join us in the U.S. rather than remain alone in some other country where

we have no friends or relatives. So, Walter, like me, joined Jaime in Los Angeles. Our Aunt Dexi was also in Los Angeles at the time and Walter lived with her as I did not have enough money to send for him to come to Washington to be near me. We had a very close relationship and Walter told me often that he wanted to come to Washington to be with me. I had found a part time job and promised to send for him as soon as I could, but unfortunately, that was not soon enough.

About four months after Walter arrived I finally had enough money to take a bus to California. I had some other friends who were going at the same time and we left together. This was in September of 1980. Five days later, when I arrived in Los Angeles expecting to find my brother, I was met with the terrible news that he had been captured by the INS during my trip, and had been sent back to El Salvador. I know that he did not go voluntarily as he knew that I was coming for him, and I knew that he was very afraid of what would happen to him in El Salvador where all the young men are being killed or drafted by force into the Army. After what had happened to him before he fled, there is no way he would have agreed to go back. Unfortunately, my Aunt Dexi did not know about it until she got a phone call from Walter saying that he had been deported by Immigration and was back in El Salvador. Dexi told him to go to San Miguel to stay with our grandfather until other arrangements could be made.

Our family did not have enough money to help him escape right away but, I promised him I would send him money from my salary every week. We spoke by telephone several times and he told me he was afraid. I felt very bad for him as he was so young to live a life of fear. Anyway, I knew what could happen to him if the Army found him and feared for his safety.

4. On Saturday, November 14, 1981, these fears became reality. My Aunt Julia called us after it was all over. She told me that Walter had gone to a party with some friends Saturday night. He and another friend left the party and went to sleep in my grandfather's house. Apparently, the girlfriend of Walter's friend followed them to the house and was demanding to be let in. Walter was afraid to let her in and refused to open the door. She finally left and on her way home was stopped by the National Police as it was late at night and anyone who is walking in the streets, especially if you are young, is suspected of being a guerilla out on some mission. They asked the girl who she was with and she brought them to my grandfather's house. The Police broke the door down and began shooting into the house. Only my grandfather and Walter and his friend were home. My grandfather is blind so they did not kill him but, knocked him out of the way and dragged Walter and his friend out. Next they went to the house where the girl lived and dragged out her own young brother. The next morning, when my Aunt Julia found out, she went to all the National Police stations asking for Walter. None of them claimed to know where he was. Finally someone told Julia that six or seven young people had been found along the roadside in a nearby canton called Anchico, and had been brought to the city morgue in San Miguel.

Julia went there and sure enough, Walter and his friend were amongst the dead. Walter's death certificate indicates that he died of strangulation but, my Aunt said he also had bullet-wounds on his body. I could not ask her for more details as it was a very painful subject. We all felt guilty for not having taken him away from El Salvador where he and we knew, that he was likely to be singled out and killed for being a suspected guerilla, because of his refusal to serve in the Armed Forces, and because he was a young male.

5. Also, the husband of my Aunt Marlene de Rosario Garcia, Rodolfo Antonio Grande, was killed by the National Police on May 7, 1982. We don't know the circumstances except that he was arrested by the National Police and they called his family to tell them that he had been found dead in his cell although there is no proof of this and more likely than not, he was killed by the National Police who are notorious for their brutality.

6. Because of what happened to my brother and uncle, I fear that I too will be killed if I am forced to return. In fact, I do not know how the Salvadoran Army found out where I was living in the U.S. but, in early 1980, I received a letter from them that I was needed to serve once again and that I should return. I suspect that a friend of mine who was still in the Army, a Sgt. Campos, had given them my address. I tore up the letter as I had no intention of returning. Several others who had served with me at the time had deserted the Army before their terms were up because of how bad conditions had become. They told me not to go back even though not to do so would make me appear to be against the military and government policies. Now more than ever, I am sure that if I were to return that I would be looked upon as a guerilla sympathizer. They have already killed my younger brother as a suspected suversive and probably even my uncle for the same reason. For all these reasons, I am sure that my name is now marked and that I would also be killed if I were returned. For these reasons, I ask that you not send me back to certain death which awaits me. This government has already deported my brother Walter who would otherwise be alive today. I ask you to not commit the same deadly mistake with my life but, to grant me the asylum so that my brother Walter will not have died in vain.

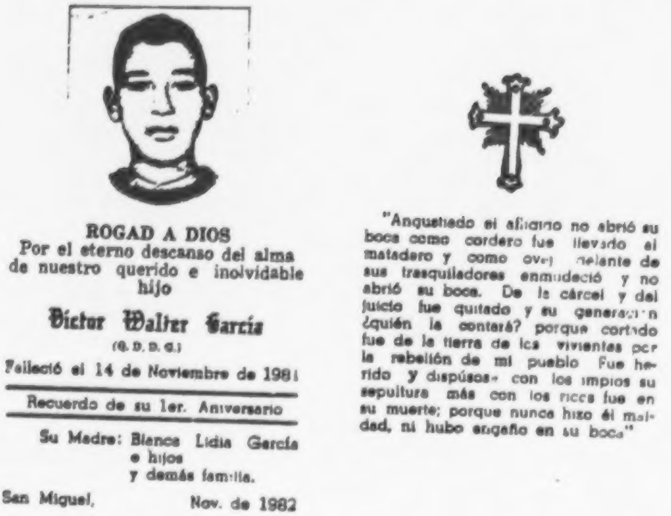
signed: ______________________
Luis Antonio Garcia Ortiz

Washington, D.C. ss:

Subscribed and sworn to before me this 25th day of April, 1983.

Kathryn Lipp
NOTARY PUBLIC

My commission expires on: March 31, 1988.



ROGAD A DIOS
Por el eterno descanso del alma
de nuestro querido e inolvidable
hijo

Victor Walter García
(Q. D. D. G.)

Falleció el 14 de Noviembre de 1981

Recuerdo de su 1er. Aniversario

Su Madre: Blanca Lidia García
e hijos
y demás familia.

San Miguel, Nov. de 1982

"Angustiado el afligido no abrió su boca como cordero fue llevado al matadero y como oveja delante de sus trasquiladores enmudeció y no abrió su boca. De la cárcel y del juicio fue quitado y su generación ¿quién la contará? porque cortado fue de la tierra de los vivientes por la rebelión de mi pueblo. Fue herido y dispúsose con los impíos su sepultura más con los ricos fue en su muerte; porque nunca hizo él maldad, ni hubo engaño en su boca"

PRAYER TO GOD

For the eternal rest of the soul of
our beloved and unforgettable son

VICTOR WALTER GARCIA

Died, November 14, 1981

In memory of his first anniversary

Your mother: Blanca Lidia Garcia
and sons and other family

San Miguel Nov. 1982

"Anguished, the afflicted did not open his mouth like a lamb he was taken to the slaughter and like sheep before his sheerers he remained silent and did not open his mouth. From the jail and from the judgement he was taken and his generation- who will tell them? why he was taken from the earth of the living by the rebellion of my people. He was wounded and made ready with infidels his grave rather than the rich he was in his death, because he never committed a wrong, nor deception in his mouth."

CUARENTA CENTAVOS

T.R. 0906468

EL INFRASCRITO JEFE DEL REGISTRO CIVIL DE ESTA CIUDAD:

CERTIFICA: que á página 217 Tomo 5 del libro de Partidas DEFUNCIONES que esta Oficina llevó durante el añe 1981 se encuentra la que literalmente dice: Partida número doscientos diecisiete-Nombre del Difunto-VICTOR WALTER ORTIZ.-sexo masculino de dieciseis años de ec estade civil seltero profesión u oficio estudiante originario de - Soyapango departamento de San Salvador del domicilio de esta ciuda y de nacionalidad Salvadoreña. hijo de Victor Manuel Ortíz y de - Blanca Lidia Garcia Falleció a la primera hora del día de ayer en el cantón Anchico de esta jurisdicción a consecuencia de Estrangulación expedido el diagnóstico por el Médico forense Docter Robert Rivas Blanco sin asistencia Médica Dió estos datos Julie de la Paz Garcia quien exhibe su cédula de identidad personal número tres un treinta y nueve mil veintiocho, expedida por las autoridades Municipales de esta localidad y firma Alcaldía Municipal,Oficina del - Registro Civil San Miguel, a dieciseis de noviembre de mil novecie tos ochenta y uno-Amparo T.Pacheco-Jefe del Registro Civil-Julia de la Paz Garcia-RUBRICADAS". ES CONFORME: con su original cen el cual se confrontó y para los usos que convenga a la parte interesada se expide la presente en la Oficina del Registro Civil San Migue quince de abril de mil novecientos ochenta y dos-

REGISTRO CIVIL

IRMA ROLDAN DE ALFARO
Jefe Registro Civil

MEdeSosa-

Translation

The undersigned the Chief of the Civil Registry of this ciudad certifies: That on page 217 Volume 5 of the Book of Death Certificates that were carried by this office in 1981, there appears what literally reads as the following: Certificate number two hundred-seventeen, name of the deceased-VICTOR WALTER ORTIZ- masculine sex, 16 years old, civil state single, profession student, originally of Soyapango Department of San Salvador and resident of this city, Salvadoran nationality. Son of Victor Manuel Ortiz and of Blanca Lidia Garcia. Died during the first hours of yesterday in the Canton Anchico of this jurisdiction as a consequence of strangulation according to the diagnosis of the forensic doctor Roberto Rivas Blanco, without the presence of the doctor Julio Paz Garcia gave this data, and who exhibited his personal identity card number 313090 28, issued by the municipal authorities of this locality and signed by the Municipal mayor, office of the civil registry of San Miguel, 16 of November 1981- Amparo T. Pacheco- Chief of the Civil Registry- Julia de la Paz Garcia-TITLE. THIS CONFORMS with the original with which it was compared and for the uses that suit the interested party the present is issued in the office of the civil Registry of San Miguel April 15, 1982.

-S-

Irma Roldan De Alfaro
SEAL Chief of the Civil Registry

Brownsville Herald July 15 1983

4. Jose Enriquez Orellano

Decapitated 1982

Deported Salvadoran decapitated

Brownsville Herald 7-15-83

BY JESUS MENA
Herald Staff Writer

A letter bore the tragic news a Brownsville attorney had spent months looking for. Now she just hopes the account of the tragedy will convince immigration officials that something has to be done.

Immigration attorney Linda Reyna Yanez said she has been trying to convince Immigration and Naturalization Services officials that Salvadoran refugees should be granted political asylum since many of them face almost certain death when they are deported. Their argument to her has always been that there is no proof that this actually does happen, she said. Now she says she has proof that one Salvadoran who was deported from the Valley last year was assassinated shortly after he returned to El Salvador.

The body of Jose Hernandez, 19, was found Nov. 27 near his home in El Salvador. He had been decapitated and had three bullet holes through the chest. Hernandez's brother, who recently entered the United States without documents, contacted Ms. Yanez and told her of his brother's brutal murder. For the sake of the brother's safety, Ms. Yanez would not reveal his name.

"My brother's name was Jose Hernandez," writes Hernandez's brother in a letter to Ms. Yanez. "He was in the accident of the refrigerator truck in Edinburg, Texas; after the accident the government of United States sent my brother back to El Salvador. Fifteen days later after his return he was killed and decapitated. I have these photographs before and after he was killed. I came to the United States because my family was threatened with death. I feel sad about the government of the United States sending my brother back to El Salvador. He could be alive today."

The Edinburg accident referred to in the letter occurred in October when 23 Salvadorans were abandoned by smugglers in an air-tight tractor-trailer rig just outside Edinburg. Four of the refugees died of asphyxiation before authorities pulled them out of the rig. One other Salvadoran was found dead a few days later in an irrigation canal just outside of Donna. Ms. Yanez said Hernandez survived that ordeal and was deported shortly thereafter.

Hernandez was kidnapped when he returned to El Salvador, Ms. Yanez said. There were eyewitnesses to the abduction. Speculation has it that it was leftists who were responsible for the horrid assassination since Hernandez was a government soldier and supported the existing regime.

Before he left El Salvador for the U.S., Hernandez had been wounded in action and had been sent home to recuperate, said Ms. Yanez. That was the first time he experienced trouble with leftists. Guerrillas came to his home looking for him one day when he was out. Since they could not find him, the guerrillas harassed the family and neighbors then left in frustration. Hernandez left for the U.S. shortly thereafter, fearing for his life.

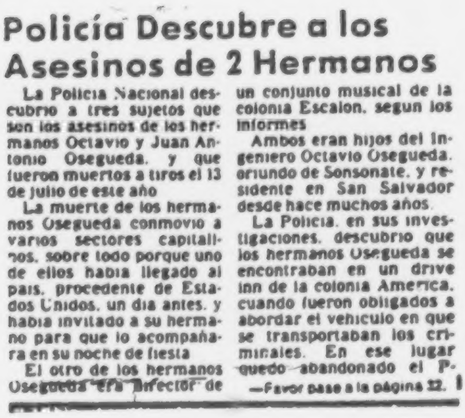
"It doesn't matter which side killed him," Ms. Yanez said. "The fact remains that he was killed in a brutal fashion shortly after he arrived in El Salvador."

Ms. Yanez said the government places an excessive burden on immigration lawyers, forcing them to prove conclusively that their clients face a life-threatening situation before they will consider granting political asylum. That's very hard to prove, she said. Furthermore, once people have been killed, they can't document their fate so that the INS will know what happened, she argued.

Ms. Yanez intends to contact top-level INS officials and Amnesty International to tell them of Hernandez's tragic homecoming. She hopes the story will help convince government officials that sending refugees back to Central America is not the same as sending a Mexican back to Mexico.

5. Octavio Osegueda
Killed 1983

EL DIARIO DE HOY, November 10 1983



Policía Descubre a los Asesinos de 2 Hermanos

La Policia Nacional descubrio a tres sujetos que son los asesinos de los hermanos Octavio y Juan Antonio Osegueda. y que fueron muertos a tiros el 13 de julio de este año

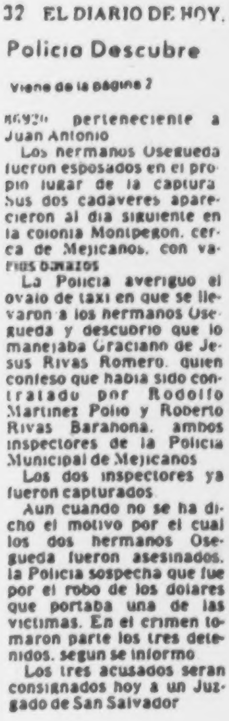
La muerte de los hermanos Osegueda conmovio a varios sectores capitalinos. sobre todo porque uno de ellos habia llegado al pais. procedente de Estados Unidos. un dia antes. y habia invitado a su hermano para que lo acompañara en su noche de fiesta

El otro de los hermanos Osegueda era director de un conjunto musical de la colonia Escalon. segun los informes

Ambos eran hijos del Ingeniero Octavio Osegueda. oriundo de Sonsonate. y residente en San Salvador desde hace muchos años.

La Policia. en sus investigaciones. descubrio que los hermanos Osegueda se encontraban en un drive inn de la colonia America. cuando fueron obligados a abordar el vehiculo en que se transportaban los criminales. En ese lugar quedo abandonado el P-

—Favor pase a la página 32.



32 EL DIARIO DE HOY.

Policia Descubre

Viene de la página 2

86920 perteneciente a Juan Antonio

Los hermanos Osegueda fueron esposados en el propio lugar de la captura. Sus dos cadaveres aparecieron al dia siguiente en la colonia Montpegon. cerca de Mejicanos. con varios balazos

La Policia averiguo el ovalo de taxi en que se llevaron a los hermanos Osegueda y descubrio que lo manejaba Graciano de Jesus Rivas Romero. quien confeso que habia sido contratado por Rodolfo Martinez Polio y Roberto Rivas Baranona. ambos inspectores de la Policia Municipal de Mejicanos

Los dos inspectores ya fueron capturados

Aun cuando no se ha dicho el motivo por el cual los dos hermanos Osegueda fueron asesinados. la Policia sospecha que fue por el robo de los dolares que portaba una de las victimas. En el crimen tomaron parte los tres detenidos. segun se informo

Los tres acusados seran consignados hoy a un Juzgado de San Salvador

(Translation on next page)

Police Discover Assassins of Two Brothers

El Diario de Hoy Nov. 10, 1983

The National Police discovered three individuals who are the assassins of the brothers Octavio and Juan Antonio Osegueda who were killed by gunshot July 13 of this year.

The deaths of the Osegueda brothers moved various sectors of the capital, above all because one of them had arrived in the country from the United States one day earlier and had invited his brother to accompany him on his night of celebration.

The other Osegueda brother was the director of a musical group from the Escalon district, according to reports.

Both were sons of engineer Octavio Osegueda originally from Sonsonate but a long-time resident of San Salvador.

The Police, in their investigations, discovered that the Osegueda brothers were at a "drive-in" in the American district when they were forced to board a vehicle in which criminals are transported. License plate number P-86920, belonging to Juan Antonio, was abandoned at the site.

The Osegueda brothers were handcuffed at the site of their capture. Their two corpses appeared the following day in the Montpegon district, near Mejicanos with various bullet wounds.

The Police investigated the taxi in which the Osegueda brothers were transported and discovered that the driver was Graciano De Jesus Rivas Romero who confessed to having been contracted by Rodolfo Martinez Polio and Roberto Rivas Barahona, both inspectors of the Municipal Police of Mejicanos.

The two inspectors have already been apprehended. Although they have yet to state the motive behind the killing of the two Osegueda brothers, the Police suspect that it was to steal the dollars carried by one of the brothers. All three of the detained took part in the crime, according to sources.

The three accused will be assigned to a judge in San Salvador today.

6. Affidavit of Jose Rosales

I certify that I have compared this copy with its original and it is a true and complete copy.
(Signed) ______ (Date ______)
Marc Van Der Hout, Attorney at Law
915 Middlefield Rd., Ste. 2
Redwood City, CA 94063
Admitted to Practic. in State of California

AFFIDAVIT OF
JOSE ROSALES

State of California)
) ss
County of San Mateo)

I, Jose Rosales, being duly sworn do hereby depose and say:

I am a native and citizen of El Salvador, twenty seven years of age. I have applied for political asylum in the United States.

I was born in the department of Santa Ana in El Salvador. My parents were peasants who worked their own plot of land.

When I was sixteen years old, I enlisted in the Salvadorean army to fight in the war against Honduras. I remained in the army until 1980, when I left El Salvador and came to the United States. Until I left El Salvador, the military was my only career. I was promoted to the rank of sergeant in 1976. This promotion put me in command of a company of soldiers. Orders from the military high command would come directly to the colonel, who would convey them to the company command. I received my orders from the company command, and was responsible for conveying orders to the soldiers in my company.

Due to my many years as a career military man, my role in the chain of command, and my frequent contact with both superior officers and soldiers, I am well familiar with the organization and methods of the Salvadorean military.

I am also quite familiar with other branches of the Salvadorean security forces, including the National Guard, the Hacienda Police, the National Police, and the Judicial Police. I am familiar with these branches of the security forces because:

1. I have friends in these security forces, as many of the men I served with in the army are now members of the security forces.

2. I have had many opportunities, in the course of my military duties, to observe the actions of the security forces. This is especially true of the National Guard, since I have been part of army operations ordered as back-up to the operations of the National Guard. I have also observed the National Guard and other security bodies in the performance of their duties when the army has conducted operations in the same geographic area as the other security bodies. I have personally witnessed actions taken by these security bodies.

I left El Salvador because I did not agree with the current government policies of kidnapping, torture, and murder of innocent civilians under the guise of fighting subversion.

Young people in El Salvador, especially young male civilians, face particularly severe persecution in El Salvador. In this category I place male civilians from their early teenage years through their thirties, although there is no precise "cut off" age since the government targets anyone of fighting age. Almost all of the young men who have not entered military service have been killed or have been forced to flee; because they are presumed to be guerillas or sympathizers with the opposition movement. I base this statement on personal obervation of the treatment of young male civilians in El Salvador by the army and security forces, conversations with superior officers, soldiers and members of the security bodies and my knowledge of the requirements of military service in El Salvador.

In El Salvador, military service is obligatory for males beginning at age sixteen. As a career military officer, it was my duty to be familiar with regulations governing obligatory military service.

I enlisted in the army voluntarily at the age of sixteen. At this time, however, the only method of enforcing obligatory military service in El Salvador was by kidnapping young men on the street and taking them forceably to the barracks. This was officially sanctioned by the government and military command. I know this from conversations with superior officers. In addition, this is common knowledge among the people of El Salvador, because so many young men have been kidnapped and conscripted into military service in this manner.

This system was extremely haphazard and could not continue to meet the army's needs for manpower when the fighting in the current civil war became more intense. Therefore, a new system for enforcing obligatory military service was devised. I am familiar with this system because the orders were communicated to me from the company command. According to the orders, the local commandant is responsible for sending notices to eligible young men, telling them to appear at the army barracks or office for induction. The young men are sent three such notices. If they do not appear, this is taken as a sign of subversion. The National Guard or Hacienda Police will be sent to look for them. Formerly, if they found the young man, they would tie him up by the thumbs with his hands behind his back and take him back to the barracks. I know this because I am familiar with the National Guard policies in this area, and because the conduct of the National Guard and Hacienda Police have been described to me by members of these organizations.

Currently, however, it is much more dangerous for a young man to be captured in this way than it was several yea s ago. The reason for this is that the Salvadorean armed forces are currently engaged in fighting guerilla forces and the repression of the civilian population is particularly severe. Now, if a young man is captured for not answering his induction notices, it is assumed that his failure to report for military service is a sign of subversion and opposition to the current regime. The young man will therefore be "investigated" by the National Guard or police who capture him. This "investigation" takes the form of beatings and torture. Those who resist induction are very severely beaten, tortured or killed. I know this because of the fact that these actions are taken in support of the army's induction efforts, although usually not specifically by army personnel. These actions have also been specifically described to me by National Guards - men who I am acquainted with. In addition, I have witnessed the capture and beatings of young men in this manner by police and National Guardsmen, although I did not personally participate in these activities.

These kinds of actions are often taken against young men even when there is no specific information that the young man has failed to respond to an induction notice. Because of this, young people in El Salvador are terribly afraid of the security forces. I am aware of this because young people invariably run away when they see the security forces. This is so common that it would be impossible for me to count the number of times I have witnessed this. If the young men do not escape they are searched and interrogated to discover if they are subversives, in the same manner as those who are known to have failed to report for military service. The interrogation often takes the form of beatings and torture. A young man who resists or tries to run away will often be shot. I have heard this commented on by members of the National Guard. I have also witnessed beatings of young men carried out in the street in the course of interrogation. The fact that young men are often killed in these encounters with the security forces is reported openly in the press, and is therefore well known. The names and pictures of the dead are often printed in the daily newspapers. I have seen these newspaper accounts and pictures many times.

On the National Radio, it is common to hear announcements calling on young men to enlist in the armed forces. The announcements state that enlistment is necessary to defend the country and to avoid suspicions that one is a communist or subversive. The announcements include a telephone number for citizens to call to report the names of young men who are not in the military. This atmosphere of suspicion leads to many repressive actions, particularly by the National Guard and the other security forces. Young people in El Salvador are terribly afraid of the security forces.

I have strong reasons to believe that the dangers faced by all young male civilians in El Salvador are greatly enhanced for those who are returned to El Salvador after being deported from other countries. I am aware of this increased danger because I was stationed at the San Salvador airport in the latter part of 1979. I recall one particular incident in November, 1979 when an airplane arrived carrying, among others, nine Salvadoreans being deported from Mexico. The nine deportees were detained at the airport, "investigated" that is, tortured and killed. Pictures of their bodies appeared in the newspaper. During my duties at the San Salvador airport I learned from conversations with superior officers that young men who are returned to El Salvador deported from other countries must be presumed to have left the country in order to avoid military service. This is considered a form of subversion or communism, because of the assumption that a young man who resists entering the army must be in opposition to the government. For this reason, young men deported to El Salvador face extreme danger of being killed, simply by virtue of the fact of having left and been deported.

In addition to reasons having to do with the obligatory military service, there are many other reasons why young civilians in El Salvador are universally suspected by the authorities of being subversives. Young people have been involved in many demonstrations against the government in El Salvador, some of which I witnessed. Therefore, the military has the perception that all young people oppose the government and are involved in subversion. As a soldier I was obliged to take part in actions in support of the National Guard to suppress three demonstrations on three different occasions , between 1977 and 1978. These actions always ended in massacres when the National Guard would start firing into the crowd. The crowds were composed almost entirely of young people. Many people were killed as they attempted to escape.

I am also familiar with the operations of the so-called Death Squads. Early in 1980, I volunteered to join what is referred to in El Salvador as a Death Squad. However, in my experience the Death Squad has no independent existence outside of the Salvadorean military and security forces. It is simply a form of duty which the military personnel are ordered to carry out while not in uniform. Within the military, these operations are not referred to as "Death Squads", but simply as "missions". I have personal knowledge of many experienced soldiers who volunteered for these missions. I myself volunteered for one such mission in March of 1980. I then received verbal orders from a National Guardsman to take part in an operation involving a thirty seven year old man in a suburb of San Salvador.

An army colonel coordinated the operation. The man was captured and tortured for two hours, but gave no information. He said that he knew he would be killed anyway, so he had no reason to talk. This was true, since the leaders of the mission planned to kill him, whether or not he gave any information. I did not participate in the torture, but I witnessed it. A nail was driven up one of his nostrils. All the fingers on one hand were broken and a hyperdermic needle was jammed into his wrist. After the soldiers were finished torturing him they shot him and stole his watch. Many soldiers volunteer for this duty because of the opportunity to rob their victims. I have also had the opportunity to read reports written about people selected to be tortured and murdered in this manner. Often, the "information" comes from neighbors who appear to hold a personal grudge.

From my experience in the Salvadorean military, I can state categorically that any young man deported to El Salvador would face grave risk to his life. For the reasons outlined above, he would be immediately suspected of being subversive. In El Salvador, a suspected subversive who is captured by the military, as a deportee, would be lucky if he were only shot. The unlucky ones are subjected to brutal tortures before their execution.

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Although young men face particularly grave dangers in El Salvador, other sectors of the population have also been subjected to extremely brutal treatment. I therefore firmly believe that any Salvadorean deported from the United States would be at great risk to his or her life.

This affidavit was translated to me in Spanish and I knew and understood the contents therof before signing.

Subscribed and sworn to
before me on this 16th
day of September, 1981.

Jesus R. Carbajal

JESUS R. CARBAJAL
NOTARY PUBLIC - CALIFORNIA
PRINCIPAL OFFICE IN
SAN MATEO COUNTY
My Commission Expires Dec. 5, [illegible]

X

JOSE ROSALES

I hereby certify that I am fluent in both Spanish and English and that I read the attached affidavit to Jose Rosales in Spanish and he understood the contents thereof before signing.

Mr. Moakley. Thanks.

The committee will recess for 3 minutes, because we have 3 minutes to catch a vote on the immigration bill.

We will be right back.

[A brief recess was taken.]

Mr. Moakley. The subcommittee will come to order.

We will now hear from Mr. Arthur C. Helton, Lawyers' Committee for International Human Rights.

STATEMENT OF ARTHUR C. HELTON, LAWYERS' COMMITTEE FOR INTERNATIONAL HUMAN RIGHTS

Mr. Helton. Thank you, Mr. Chairman and members of the subcommittee, and thank you for inviting us to appear and to present our views on H. R. 4447 today.

We very much share your concern that the administration has drawn in overly narrow terms the real humanitarian considerations that underlie the legislation which you have proposed.

In particular, the basic question, in our view, is whether or not Salvadorans in El Salvador have realistic assurances of protection under the regimes of law in that country.

Aside from the so-called plight of deportees to El Salvador from the United States, there is actually some additional evidence that we wish to share with you on that topic.

As a result of a recent mission of inquiry in January, and subsequent investigations, we have concluded, along with the Americas Watch Committee, that there are serious protection problems for displaced persons, an independent category of inquiry under the terms of the legislation which you have proposed, and which problems are generalizable to the question of whether or not noncombatant civilians receive realistic protection in El Salvador.

Indeed, in a March 1984 report, the Agency for International Development characterized protection for displaced persons as a central issue, one presumably deserving the further study contemplated in the legislation you are proposing.

Over 1 million Salvadorans have left El Salvador as a result of the violence in that country. That is 20 percent of the population of El Salvador—500,000 of them have remained within the country, internally displaced. They are almost entirely women, children, and the elderly. Many are in camps, and most are in and around San Salvador.

The protection problems that they suffer stem, in large part, from the characterization by both the Salvadoran and the United States Government, that they are either guerrillas, or guerrilla supporters, a preposterous proposition, when one recalls that they are largely women, children and the elderly.

The kinds of protection problems that they suffer vary, but are all severe. In particular, in the government-controlled areas, the camps in which the displaced find themselves, suffer surveillance, periodic attacks, and disappearances. Not only the displaced suffer, but the relief workers who proffer their services to the displaced, suffer these activities, as well. It is not limited to any particular camp, nor to any particular church group.

It is a pattern that has existed for sometime, and that continues. It is one that deters relief workers from going and inserting their agencies into El Salvador, and from assisting a population in desperate need.

Another kind of protection problem that has been reported includes aerial bombings of civilians in conflicted areas, including apparently, some displaced, in connection with medical consultations that they are scheduled to receive from the International Committee of the Red Cross.

Clearly, if such bombing activities are proven, and that is something I think that should be comprehended under the terms of the study required under the legislation proposed, that would be illegal action under international humanitarian law.

Third, because of the activities, both in the Government-controlled areas, and in the conflicted areas, over 200,000 of the 500,000 displaced are afraid to register for Government assistance with the civilian agencies that provide assistance in El Salvador. Many believe that if they register, they will suffer reprisals because the military is a structural part of the assistance providing process in El Salvador. The displaced repeatedly reported that they believed that if they give information about themselves or their family members, they will be singled out for reprisals by the military.

There are no provisions for confidentiality regarding the information concerning the displaced which is required to register for assistance in El Salvador. They are put in a position where they must make a grisly choice. They must in fact choose between physical security and Government assistance, and many forego Government assistance in order to achieve physical security.

There are even, in relation to another protection problem, disturbing reports that there have been plans and efforts to relocate the displaced in the departments of San Vicente and Usulutan into strategic hamlet-like situations, providing population buffers between the conflicting sides.

Clearly, it would be illegal and inhumane to utilize the displaced for military strategic reasons. Such a plan would be reminiscent of Vietnam.

The Government of El Salvador is clearly not providing protection to vast numbers of Salvadorans. In view of that, and absent assurances that that kind of protection will be forthcoming for those who cannot properly be awarded asylum in the United States, then their deportation to El Salvador should be suspended. Any other outcome, we submit, would be illegal and inhumane.

Thank you.

[Mr. Helton's prepared statement follows:]

STATEMENT OF ARTHUR C. HELTON
OF THE
LAWYERS COMMITTEE FOR INTERNATIONAL HUMAN RIGHTS

Thank you, Chairman Moakley, for inviting our views at today's hearing. My name is Arthur C. Helton. I am the director of the Political Asylum Project of the Lawyers Committee for International Human Rights which is based in New York. Since 1978, the Lawyers Committee has been a public interest law center working in the areas of international human rights, refugee and asylum law.

Our testimony today concerns H.R. 4447, legislation which you, Mr. Chairman, introduced to provide for the temporary suspension of deportation of Salvadorans pending an investigation and report by the President on various matters, including the situation of displaced persons in El Salvador, with particular reference to their numbers, personal security, needs for humanitarian assistance, and resources for assistance. The legislation also calls for the formulation of steps to be taken to improve the situation of the displaced.

The plight of the displaced in El Salvador was recently the subject of a mission of inquiry in January by the Lawyers Committee, which found a number of very disturbing long-term legal protection problems. We wish to relate the findings and recommendations of the mission, supplemented by subsequent investigations, in connection with the legislation being considered today.

The Mission

In January of 1984, a mission co-sponsored by the Lawyers Committee and the Americas Watch Committee visited El Salvador to examine the situation of displaced persons in that country. I headed the Lawyers Committee delegation, which also included Nan Borton, Executive Director of International Voluntary Services, and Jemera Rone, a New York lawyer associated with the firm of Skadden, Arps, Slate, Meagher & Flom.

The Americas Watch delegation was headed by Aryeh Neier, vice chairman of Americas Watch, and included Cynthia Arnson, consultant to Americas Watch, and Dr. Victor Penchaszadeh, a pediatrician and specialist in maternal and child health at the North Shore University Hospital in Manhasset, New York. The joint delegation visited El Salvador from January 8-15, 1984.

Those Interviewed

While in El Salvador, the delegation met with a number of officials of the government of El Salvador responsible for programs dealing with displaced persons, including Colonel Luis Alonso Amaya Arevalo, head of CONARA*/

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*/ The National Commission for the Restoration of Areas (Comision Nacional de Restauracion de Areas) is known as CONARA.

Dr. Mario Humberto Claros, manager of CONADES,[*] and Ingeniero Armando Flamenco, General Director of DIDECO.[**] The delegation also met with representatives of private voluntary agencies who assist displaced persons in El Salvador, including the Salvadoran Evangelical Committee of Assistance and Development (Comite Evangelico Salvadoreno De Ayuda y Desarrollo) ("CESAD"), the International Committee of the Red Cross ("ICRC"), the Salvadoran Red Cross, Caritas, Catholic Relief Services, the Social Secretariat of the Archdiocese of San Salvador, the Mennonite Central Committee, the Lutheran Church, Save the Children (Desarrollo Juvenil Comunitario), and other church and private voluntary organization representatives.

The delegation also conferred with the human rights monitoring office of the Archdiocese of San Salvador, called the Office of Legal Protection (Tutela Legal), and other Salvadoran human rights organizations; with academicians from the University of Central America Jose Simeon Canas in San Salvador and the School of Medicine of the National

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[*] The National Commission for Assistance to the Displaced (Comision Nacional de Asistencia a la Poblacion Desplazada) is known as CONADES.

[**] Community Development (Desarrollo de la Comunidad).

University; and with other individuals concerned with the displaced, including Raul Molina Martinez, First Vice President of El Salvador, who has formed a private group to assist the displaced.

Finally, the delegation met with Ambassador Thomas Pickering and with other officials of the Embassy of the United States in San Salvador, including officials of the U.S. Agency for International Development ("AID") program in El Salvador. Meetings were also held with AID and State Department representatives in Washington, D.C., including representatives of the Refugee Bureau, the Bureau of Human Rights and Humanitarian Affairs, and the Refugee Coordinator's office.

The Places Visited

While in El Salvador, the delegation visited nine displaced person locations, including eight camps, which, according to the AID Mission, were representative of the wide variety of living situations in which displaced persons have sought protection and care, particularly in and around San Salvador. The camps and locations were Fe y Esperanza (assisted by the Lutheran Church), the seminary of San Jose De La Montana and San Roque Church (run by the Archdiocese), Santa Tecla (assisted by a Roman Catholic parish priest), and San Marcos (assisted by CONADES), all in the area of San Salvador.

Outside of San Salvador, in the department of La Libertad, the Bethania camp (run by the Medecins du Monde) was visited; as was the town of La Libertad, where the displaced live in non-camp situations, assisted by Roman Catholics from the Cleveland Mission Team. In San Francisco Gotera in the eastern department of Morazan, two camps were visited, El Tiangue and El Campo, both supervised by Roman Catholics of a Welsh Franciscan Order.

Finally, the delegation interviewed five relief workers imprisoned in Mariona and Ilopango Prisons in San Salvador.

Our Findings

The 257-page report of the joint mission, entitled El Salvador's Other Victims: The War on the Displaced, found bombing attacks on the displaced by the Salvadoran Air Force, including at least some attacks in conflicted areas where the International Committee of the Red Cross has been providing humanitarian assistance. We also found many instances of Salvadoran military surveillance and attacks on displaced persons camps, and the harassment and intimidation of relief workers.

Furthermore, we found that thousands of the displaced are unwilling to register for food and medicine with the Salvadoran government's relief programs (CONADES and CONARA) because they fear that registration will lead to their persecution by the military, which is structurally involved in the registration process. No arrangements are made to protect the confidentiality of information relating to the recipients of assistance, nor to guard against misuse of that information by the Salvadoran military. As a result, many of the displaced make a grisley choice and forego the possibility of receiving humanitarian assistance in return for what they perceive to be greater physical safety by avoiding the registration process.

Those displaced by the conflict in El Salvador have suffered family disruption and extreme personal hardship. A large number of these people have sought to escape the war by finding refuge in other countries. Of the displaced persons who have remained in El Salvador, many today live in the most impoverished circumstances, often herded together in camps in which they are virtual prisoners because of the extreme danger they would face if they attempted to leave. Few have any prospect of rebuilding more or less normal lives until the conflict is over.

Approximately 500,000 Salvadorans -- about 10 percent of El Salvador's population -- have been forced to flee their homes but have remained within their country's borders. Unlike those who have left the country and who are covered by international refugee law, these people are known as displaced persons. While we are concerned with the obvious humanitarian needs of these people -- lack of adequate food, shelter, and medical care -- we are particularly concerned with their need for legal protection. In the course of our investigation, we discovered that many of the hardships which the displaced in El Salvador suffer derive from their lack of legal protection.

Our principal finding is that many of the internally displaced persons who are not officially registered with the Salvadoran government -- approximately 200,000 people -- are subjected to deliberate attacks by the Salvadoran armed forces. Such attacks take place despite the fact that virtually all these people are women, young children, and elderly people; despite the fact that they are helpless and defenseless; and despite the fact that highly respected international voluntary organizations and religious groups attempt to provide them with care and protection. We found that these attacks also extend to the relief workers who attempt to assist the displaced. The forms of attack range from aerial bombardment to abduction, torture, disappearance and murder.

As best we can determine, these attacks take place because the Salvadoran armed forces consider many displaced persons to be sympathizers with the guerrillas, or -- preposterous as it may seem in connection with a population almost entirely comprised of infants, young children, their mothers, and the elderly -- themselves active guerrillas.

The violence and harassment inspired by government mistrust of the diplaced creates a vicious circle, for the reason that so many of the displaced in El Salvador have not registered with the government is fear. We found that they are afraid to give their names, relationships and places of origin to the Salvadoran authorities because they believe that to do so would invite reprisals. They forego possibilities for care and assistance in order to achieve physical security.

The attacks are not limited to the displaced persons alone. Refugee workers, medical personnel and others who come in contact with the displaced are viewed with great suspicion and often face harassment and direct attacks by government armed forces. Thus, for example, in July of 1983, six relief workers associated with camps run by the Archdiocese were abducted and tortured. Two were released shortly thereafter. A third, Gustavo Adolfo Zelada, was released in February, and left the country. The other three, Dinora Rodriguez de Coto, her husband Marco Antonio Coto Vega, and Roxana Guadelupe Funes were finally released in March 1984, after a number of international appeals on their behalf. All three immediately fled into exile.

Dr. Angel Ibarra, who treated the displaced in a camp run by the Lutheran Church, was detained and tortured in April 1983. When he was released after six months, six others associated with the relief efforts of the Lutheran Church were detained; one of them, Ramon Grande Garcia, is apparently still in custody, after being tortured.

We found, in addition, that the policies of the United States in El Salvador contribute to the victimization of the displaced. The United States sanctions the labelling of many of these displaced as guerrilla sympathizers or supporters, including almost 80,000 displaced persons assisted by the ICRC in zones not controlled by the government. When incidents of Salvadoran Air Force aerial bombardment on those displaced who gathered to receive medical assistance from the ICRC were reported to U.S. officials, they replied in essence that there were no displaced in those zones but merely masas guerrilleras, or those they labelled "civilian logistical supporters of the guerrillas." The official U.S. denial that there is a problem unfortunately may encourage the Salvadoran armed forces to continue bombing conflicted areas with impunity and without regard to the presence of civilian noncombatants.

The United States government also errs when it makes aid available only to those displaced persons who are registered with the Salvadoran government. By this practice, the United States refuses to acknowledge that the unregistered displaced have legitimate reasons for their fear. The United States thus perpetuates the Salvadoran system of discrimination against allegedly subversive homeless women, children, and elderly people.

Even the registered displaced are not exempt from abuse by the Salvadoran government. Some of them in the San Vicente and Usulutan provinces have been threatened with forced relocation into conflicted areas as part of a "pacification" program. This includes threats to cut off food if the displaced do not relocate. In effect, they are dealt with as expendable pawns in an effort to create populated buffer zones between the armed forces and the guerrillas. Placing the displaced at risk in furtherance of a military strategy is inhumane, and it violates the law of war. Again, the policies of the United States in El Salvador contribute to this victimization of the displaced who are relocated into conflicted areas.

Our Recommendations

The total inadequacy of care provided is due in part to the concept of the Salvadoran and U.S. governments that this is merely a short-term problem, and that when the conflict is over the displaced will return to their homes and need no further assistance. The situation of displaced persons has already proven to be a long-term problem, however; this massive dislocation of persons started four years ago and has continued unabated. Furthermore, most informed observers believe that the conflict will not end in the near future. At the outset, then, the misconception about the short-term nature of the problem must be rectified.

There are compelling humanitarian and social reasons for providing adequate protection and care to the displaced. Most displaced are women, children and elderly people, victims of forces beyond their control, who live in subhuman conditions. The existence of this ill-nourished, diseased and largely illiterate displaced population, which constitutes about 10 percent of all Salvadorans, has created tremendous strains on Salvadoran society. It poses the danger of a permanent class of dispossessed, with all the potential for future destabilization which that implies.

The U.S. can be instrumental in securing legal protection for the displaced. In particular, assistance for the displaced should be distributed exclusively through a private neutral organization or grouping. Direct or indirect aid intended for the displaced but administered by the government of El Salvador should be terminated.

Greater attention should be given to the protection problems of the displaced within the U.S. Embassy and AID Mission in San Salvador. Unless adequate staff attention can be given to this problem, the U.S. government is not going to be able to develop innovative, effective solutions to the protection dilemma and the other numerous problems of the displaced.

One relief worker put it to us quite simply: innocent displaced people, including those who have relatives with the guerrillas, are afraid that they will be killed by the military, so neutral assistance organizations are needed. This relief worker said that his group was not willing to receive assistance from or be coordinated by CONADES because it did not want to be perceived as being part of the Salvadoran government, any more than it wished to be perceived as aligned with the guerrillas. Despite his group's attempts to maintain strict neutrality, however, its members have been subjected to attacks, including torture, detention and other harassment. They declined to speak with us unless we promised not to use their names.

Continued U.S. aid for the displaced through the Salvadoran government not only fails to respond to the severity of the situation, but also condones and reinforces the political bias with which aid is being distributed to some displaced but not to others. This pattern of assistance does not promote the proclaimed humanitarian aims of United States aid programs.*/

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*/ A Congressional study recognizes that solutions for the refugee and displaced persons problems are "crucial
(Footnote Continued)

The United States should strive to avoid omitting from its humanitarian assistance program thousands of needy women, children and elderly people -- those against whom no crimes have been charged or proven -- who are regarded as "subversives." In effect, these innocent victims of the war have been convicted without trial of guilt by association, and as a result are suffering the punishment of confinement in camps offering subhuman living conditions.

For institutional reasons having to do with their own need to maintain a neutral position in El Salvador and in the international community, many private organizations will not affiliate themselves with either side in this civil war, and thus will not accept U.S. funds. The United States should respect their neutrality; indeed, it should pose no problem if humanitarian assistance is to be the sole purpose of U.S. aid to the displaced. When the conflict is over, regardless of who wins, such neutral organizations may be in an excellent position to aid displaced persons and refugees in returning and resettling.

(Footnote Continued)
elements to the success" of the larger efforts for a negotiated peaceful settlement and the establishment of a democratic government. "Refugee Problems in Central America," Staff Report to the Subcommittee on Immigration and Refugee Policy, Committee on the Judiciary, United States Senate, September 1983 at 10.

The United States should also tell the government of El Salvador that military attacks against civilian non-combatants in conflicted areas must be stopped immediately, because this practice violates the Geneva Conventions and causes further displacement. Future U.S. aid to El Salvador should be conditioned on an end to military attacks on civilian noncombatants, including the displaced.

The basic human rights of the displaced located in government-controlled zones are violated by military incursions into the camps and detentions and disappearances of relief workers and displaced people. These violations of human rights should be condemned by the United States. Future U.S. aid to El Salvador should be conditioned on an end to human rights abuses against the displaced and relief workers.

Also, to force the displaced to return to an insecure area, especially through the threat of food cutoffs, is inhumane. It is the placement of war victims for military strategic purposes. No further U.S. aid should be expended in this ill-conceived forced resettlement effort. The availability of U.S. support should be conditioned on termination of all such programs.

Finally, continued insistence on registration of displaced persons guarantees that displaced persons who fear the government will not receive government aid. While private voluntary agencies should be required to maintain internal accounting, there is no need for the government of El Salvador (or the United States) to have access to the names of the displaced or other such sensitive information. Aid should be distributed according to need and not political bias.

Conclusion

The plight of displaced persons in El Salvador is grave. They are extraordinarily vulnerable and most have no realistic recourse to legal protection. Most are women and small children. Yet they are attacked by the Salvadoran military, afraid to register for aid, and used as pawns for military strategic purposes.

In the United States, over 700 Salvadorans are currently in the custody of the Immigration and Naturalization Service awaiting deportation to El Salvador. In our view, such deportations should be suspended until there are real assurances, along the lines outlined above, that those Salvadorans who do not warrant political asylum under the law, and who will be returned, will not be deprived of basic protection and assistance in El Salvador. Any other outcome would be inhumane.

Mr. **Moakley**. Thank you very much, Mr. Helton.

The last member of the panel, Mr. Joe Trevino, League of United Latin American Citizens.

Mr. Trevino?

STATEMENT OF JOE TREVINO, LEAGUE OF UNITED LATIN AMERICAN CITIZENS

Mr. **Trevino**. Thank you very much, Mr. Chairman.

On behalf of the League of United Latin American Citizens, this country's oldest and largest Hispanic organization with over 110,000 members in 43 States, I would like to express our appreciation to Chairman Moakley and the staff of the subcommittee for allowing us the opportunity to speak in support of the Salvadoran refugee bill, H.R. 4447.

LULAC sees in the arguments of the opponents of this worthy bill many of the same groundless fears that fuel the unfair and discriminatory Simpson-Mazzoli immigration bill now on the floor of the House.

The most prominent fear is that passage of this bill will produce a flood of refugees from El Salvador, refugees who will seek to remain in the United States once the fighting has ended. This fear is largely academic: the flood of Salvadoran refugees has already arrived. An estimated 300,000 to 500,000 Salvadorans—out of a population of 4.5 million—have entered this country illegally in the past few years, pushed to leave their homeland by the horrors of civil war that they confront daily.

The fear of some Americans that the Salvadorans who arrive here will seek to stay once the violence ends, overlooks the strong nationalism of Salvadorans, their love of their native land and culture, and their desire to return home as soon as conditions permit.

Not even the emotional and financial support given many of the refugees by the Hispanic community in this country can dispel the fear and uncertainty of the refugees, nor can it dissipate the longing to return to familiar surroundings, to once again see friends and relatives.

The fear that Salvadorans will now rush to enter the United States also overlooks the grueling nature of the trip, the difficulties in leaving El Salvador, the lengthy and often dangerous trek through Honduras, Guatemala, and Mexico. A decision to leave one's homeland is not taken lightly, even when that homeland is experiencing the calamities of civil war. Such fears underestimate the emotional attachment of citizens to their own country, and overestimate the appeal of the United States to those whose language and culture are different.

More importantly, the opponents of this bill set a bad precedent by turning their backs on the truly needy; they are denying the generosity and humanity of the American people. The Salvadorans are suffering and seeking a safe haven: they need our help and our aid—we should feel obliged to give it. The Hispanic community will take the lead, as it has in the past, to extend a hand, to welcome the refugees into their neighborhoods until the day to return to El Salvador finally arrives.

Fearful of being sent back to El Salvador if they are apprehended, unable to qualify for welfare assistance, needing their low wages to survive in an alien environment, and careful not to attract attention to themselves, the vast majority of Salvadoran refugees are quiet, hard working, and law abiding. In short, they are model American citizens and assets to the communities in which they live.

The real reason Salvadorans leave their homeland, embark on a long and perilous journey, and enter a life in the shadows of American society is, of course, to avoid the tragedy of civil war in their own country. The State Department earlier this year published its Country Reports on Human Rights Practices for 1983. The section on El Salvador characterized the human rights conditions there as:

> . . . strongly affected by the ongoing civil strife. As is common during civil strife, the achievements of a public order that would protect each person's rights has been disrupted by military operations, partisan hatreds, acts of revenge, the satisfaction of person grudges, pervasive fear, and a prevailing uncertainty dominated by violence.

This is the environment to which we deport Salvadorans.

The civil war, largely funded by our own Government, is the real cause behind the exodus of refugees from El Salvador. Our Government's role in the conflict has not been a conciliatory one. We have not pushed for negotiations among all Salvadorans.

We have instead continued to arm the very faction responsible for the majority of the civilian deaths in that tortured country. How ironic and confusing it must be for the refugees that we are here today debating their fate. We are the primary suppliers of arms to El Salvador, yet we return frightened refugees to that same terrible environment that we have helped shape. Our policies push them to seek refuge outside their own country: Can we now in good conscience refuse to shelter them until the long storm in El Salvador finally passes?

It should be noted in closing that the passage of any amnesty clause in the pending Simpson-Mazzoli immigration bill will not negate the need for the relief offered by this bill.

The majority of Salvadoran refugees from the civil war have only recently arrived and would not be covered even if the amnesty date were as late as 1982.

The killing of innocents in El Salvador continues, despite the election of Jose Napoleon Duarte, a good and sincere man and a committed democrat.

The need to provide a safe haven here for Salvadorans remains crucial: LULAC asks that H.R. 4447 be vigorously supported.

Thank you, Mr. Chairman.

Mr. MOAKLEY. Thank you very much.

I know that the extended voluntary departure does not have to deal with any violence that may be committed on any individual person, except the reason I asked the question is because I felt that would be more frosting on the cake. We understand as long as there is a violation of human rights existing in El Salvador, that people should not be sent back there, to be incarcerated, imprisoned, or whatever, or even be innocent victims of bombings and strafings. I think that point was well made.

So I do not want you to feel that we are trying to establish that these people would personally be killed, each one going back. We know that is not the case.

But I thought it would be a stronger case if we could really show that these things had happened to some of the people that return there.

I think your closing statement kind of anticipated my question. I was just wondering, some people feel that now that Napoleon Duarte has been elected that maybe the need for this kind of legislation is not as pressing as it was before the election and I would like the panel to speak to that.

Anyone?

Ms. WEITZ. I can respond.

Mr. MOAKLEY. Would you identify yourself?

STATEMENT OF RONA WEITZ, AREA COORDINATOR, LATIN AMERICAN AMNESTY INTERNATIONAL, U.S.A.

Ms. WEITZ. Yes. I am Rona Weitz and I am the area coordinator for Latin America for the U.S. section of Amnesty International.

In response to you question, Amnesty International published a report on May 21 of this year which specifically looks into the question of investigation of political killings in El Salvador. Since the report was released following the election of President Duarte many of the questions which have been raised following its publication relate to our assessment given the recent election in El Salvador.

Although Amnesty International has documented fluctuations in the human rights situation in El Salvador over a period of years, the same policies and structures are presently in place which have been in place over the years in El Salvador. It is our position that unless there are substantial reforms in the judicial system, such as a restructuring of the Ministry of Justice, it would be difficult to predict a major shift in the human rights performance in that country.

We documented 40,000 civilian noncombatant deaths in that report and found that a very high level of them were the result of Government-sponsored violence. This includes all branches of the security forces, whether they are nominally paramilitary, military police, or nonmilitary police.

Amnesty International would certainly be encouraged by positive measures taken by President Duarte. Many observers of the situation in El Salvador believe that President Duarte is sincere in his efforts, but the larger and more important question must certainly be whether he in fact has control of the military and whether he has the political will to bring about those fundamental changes.

Mr. MOAKLEY. Thank you.

Anybody else want to address the same situation? Is that the answer for the panel?

Mr. TREVINO. I would say on behalf of LULAC that while Mr. Duarte is a committed and sincere democrat, we have problems in that the terrorism is so entrenched in the present military government as well as in the national police that it is difficult that one man on his own, even with the support of the country, could even try to respond and try to curtail the violence that is existing today.

Mr. HELTON. The abuses that we have described reflect a long-term and complete breakdown in the rule of law in the country of El Salvador, and it is difficult to assess over a fairly short period of time whether there has been any effect by reason of Mr. Duarte's ascendency.

I think it is important also to point to the narrow scope of what your legislation proposes in terms of a study which would presumably comprehend whether or not there has been a restoration in legal protection for those who would otherwise be sent to El Salvador.

Mr. MOAKLEY. Every time I have testified or had hearings or had contact with the administration, they always say, well, you know, El Salvador, they had a long history of fleeing the country for economic reasons. We know that a huge number of people have come within the last 3 or 4 years, by their own figures, 94,000 prior to 1980 I believe it was. So what do you know about what happens with people leaving El Salvador for economic reasons prior to 1983–84?

Mr. PANDYA. Well, I believe that the figures speak for themselves. There is a remarkable coincidence between the start of the civil war and a dramatic increase in the numbers of people migrating.

I actually have some figures that were compiled by the U.S. Census Bureau. If you would just excuse me for a moment, which—oh, here they are, right. They would suggest that in the first half of 1981, 150,000 people fled El Salvador and that in the second half of 1981 an estimated 40,000 people fled El Salvador.

That would suggest that in the 1 year, 1981, close to 200,000 people fled El Salvador.

Now of course not all of them would have found their way to the United States, but one would assume, I think on projecting on the basis of known figures, that about two out of every three would find their way to the United States. So you would be talking basically about something like 130,000 people who would have come to the United States just in that one year, 1981.

As the previous panel has suggested, it is their perception anyway that the flow has only increased since the civil war began, it has increased gradually.

So I think we could assume that the bulk of people have indeed come since the civil war began.

Mr. MOAKLEY. Do you know—does anybody on the panel know of any pattern of leaving El Salvador prior to this date for economic reasons, coming to the United States?

Mr. PANDYA. Well, I think that when one talks about El Salvador's long history of migration to the United States——

Mr. MOAKLEY. I mean the way they said it, like everybody knew it was in all the newspapers, and I just was not aware of it.

Mr. PANDYA. Yes.

When they suggest that everyone who came before 1980 was an economic migrant, I think that there is some reason to doubt that. That would, I think, seriously ignore the human rights violation that characterized the regime that preceded the regime which was put in power by the revolution——

Mr. **Moakley**. You feel then if there is any migration as a result of economic reasons it is very, very minor?

Mr. **Pandya**. Well, I mean, you know, of course when one flees, one needs to work in order to support one's self. So wherever one is going and for whatever reason, one is also going to be going in order to get a job and support one's self.

To that extent, there is an economic factor that is always present.

Mr. **Moakley**. Are you a lawyer?

Mr. **Pandya**. I am unfortunately.

Mr. **Moakley**. Because lawyers have trouble saying yes or no. [Laughter.]

Mr. **Pandya**. I had that problem before I became a lawyer.

Mr. **Trevino**. Mr. Chairman?

Mr. **Moakley**. Yes.

Mr. **Trevino**. I would only say that this administration I think is actually reflecting whatever tactic they might to make sure that they are not embarrassed politically, to admit and to recognize that people are coming here for reasons other than economic reasons is to admit the reality and to concede the fact that the foreign policy this country has followed in Central America is in fact a "push" factor that causes many people to leave their homeland.

Mr. **Moakley** That is exactly the answer I thought before coming here. I thought that that would be the situation.

Mr. Beilenson?

Mr. **Beilenson**. Just for a moment, Mr. Chairman.

I must say that I found Mr. Trevino's last prepared comment somewhat more compelling to me than some others. That probably puts me in a lower moral plane than the Rabbi and the other religious folks here. I do not like to be on that lower plane. But I do feel, and I did suggest in my question to the earlier panel, and I think Mr. Trevino made it clear, simply that our own involvement is relevant, and that we do have some responsibility.

As I stated earlier, I am not sure that this is the proper position to take, that we can or even should feel compelled to solve all people's humanitarian problems. But clearly when we have been involved and contributed to the situation in some degree, in fact, a considerable degree in this case, then we do have some responsibility as we did in Vietnam, Laos, Cambodia, and in certain other places.

The gentleman points out that we have not, some of us who have opposed our policy, played a useful role in trying to resolve their problems down there and help the people who are trying to stop the war by other than military means. We have in fact contributed the arms which are apparently used by both sides to a great extent in that sad civil conflict. So I think we do have some responsibility. And I personally feel, as I said a moment or two earlier, that that is a particularly relevant kind of an argument, even though I see my church friends over there looking at me a little askance, but it is all right.

Mr. **Trevino**. If I may, Mr. Beilenson, in response to the comment.

As a Vietnam veteran, I was eminently satisfied that this country accepted its responsibility and did open its doors to many of the Indochinese who were fleeing Indochina at that time, and I think that this situation is no different. And I think, if anything, this country should oppose longstanding tradition of——

Mr. **Beilenson**. I agree. Let us assume that, from your point of view and my point of view, that we in fact had played the proper role down there, supporting the Contadora process, and our friends in that general region, that we had not shared arms and had not supported one side of the conflict, would our position, yours or mine, be any different with respect to these folks who nonetheless have come up here because of the civil conflict?

Mr. **Trevino**. I think, in good conscience, I could say that our position would not change. I think that we need to respond to the needs of individuals. And if they are willing to expose themselves to such severe risks and consequences, then I think it is a credit to this country that they are willing to undertake such risks.

Mr. **Pandya**. Let me attempt to comment on that.

It seems to me that regardless of whether one believes that our policies in Central America are right or wrong, that this kind of step is suggested either way. Because if one believed for instance that one's policies were right, that one had to go in for the long haul and see the struggle through with our friends and see them defeat the Communist opposition, nonetheless it seems to me that there would be a lot of pragmatic benefit as well as some kind of moral obligation for us to help pick up some of the human costs of a commitment to the vigorous pursuit of anti-Communist objectives.

Mr. **Beilenson**. Forgive me. I want to make myself clear. Let us just suppose that we behave as a nation the way that perhaps both of us would have preferred, that we remain uninvolved militarily, first of all, and that we are not ourselves really so responsible for prolonging the conflict and supplying the arms.

Would our position then be any different? Our hands would be a little cleaner at least. We would not have the nearly, so directly, responsible for these folks having felt it necessary to leave their homeland.

Mr. **Moakley**. It is very evident that it would be of benefit to the El Salvadorans that are in this country to have this extended voluntary departure pass.

Do you feel it is in the best interest of the U.S. Government to have this extended voluntary departure pass and, if so, how?

Mr. **Trevino**. May I respond to that?

Mr. **Moakley**. Yes.

Mr. **Trevino**. Speaking for LULAC, predominantly Hispanic membership organization in the country, given that whatever legalization cutoff date that is now being proposed by the Simpson-Mazzoli debate on the House floor does not allow for inclusion of Salvadorans who are presently in the country, I would suggest that not to do something about the Hispanics, Salvadorans that are in the country today would be to subject the legal Hispanic population to possible trampling of their civil and human rights in this country by the INS enforcement policies that are currently in place. That is a certain profile that the INS presently uses to determine who it is that they stop and question. Always runs the risk of trampling the rights of the Hispanic Americans and legal residents.

Mr. HELTON. I would just say that I think that the point was well made that we are not a neutral party in this process, and the situation has been distorted in El Salvador by our involvement.

I think it is in the interest of the United States to regain that balance of neutrality and that this legislation is in furtherance of that end. It pursues humanitarian objectives.

Mr. MOAKLEY. Well, thank you very much.

I want you to know that your entire statements will appear in the record, and for the benefit of witnesses and other groups, I have asked leave that our hearing record will be open for statements and supplementary materials if anyone wants to include them in the record.

[The following material was received for the record:]

Hotel & Restaurant Employees
Local 25, AFL-CIO

1003 K STREET, NORTHWEST, WASHINGTON, D.C. 20001 • (202) 737-2225

MINOR W. CHRISTIAN
PRESIDENT

RONALD RICHARDSON
EXECUTIVE SEC.-TREAS.

June 25, 1984

The Honorable John Joseph Moakley
Member of Congress
U.S. Capitol Building
Room H152
Washington, D.C. 20515

Dear Congressman Moakley:

Local 25, of the Hotel and Restaurant Employees Union, AFL-CIO in Washington, D.C., has approximately 1,500 Salvadoran members out of a total membership of 10,000 people. This makes Local 25 a Union with one of the largest Salvadoran membership percentages in the country.

I was recently advised of your Bill HR-4447, which requires that the Administration investigate and report to Congress on the conditions and safety of Salvadorans displaced from their homes, within El Salvador or to neighboring countries. I am very impressed that the Bill would prohibit the Attorney General from deporting Salvadorans to El Salvador and further requires that the Administration investigate and report to Congress on the fate of persons whom the United States has already returned to El Salvador.

I believe Salvadorans have a great fear of deportation to El Salvador. In my experience, this fear has made it extremely difficult to organize Salvadoran refugees into the Labor Movement in Washington, D.C.

Salvadorans epitomize the so called "docile worker" syndrome. They are routinely intimidated and exploited by employers and others because of a fear that if they speak out or resist, a call to the Immigration and Naturalization Service could result in their deportation and possible death. Those Salvadorans who have joined Local 25 have been fearful of active involvement in the Union for fear of calling attention to themselves with a consequent result of deportation and possible death.

Accordingly, Local 25 has filed a massive lawsuit against the Attorney General, Immigration and Naturalization Service, and the State Department, styled Hotel and Restaurant Employees Union, Local 25, AFL-CIO vs. William French Smith, et al. This suit requests, among other things, that the Extended Voluntary Departure (E.V.D.) status be granted to the Salvadoran refugees.

Irrespective of the Administration's protest to the contrary, El Salvador continues to suffer widespread bloodletting of combatants and non-combatants alike. The Reagan Administration, has failed to grant E.V.D. to Salvadoran refugees because of its political investments in El Salvador. It is clear that the Administration cannot, on one hand, claim to the country and the Congress that they see a light at the end of the tunnel and at the same time grant E.V.D.; a political recognition that the country is in chaos.

Your Bill HR 4447 is a major step in illuminating a situation which may reveal that deportation of Salvadorans could be a de facto death sentence for those deported. The Bill also offers a well needed reprieve for the potentially doomed, and the time necessary to take a good hard look at what may well be a holocaust in El Salvador.

I stand behind you for your farsighted and courageous legislative effort.

Fraternally,

Ronald Richardson

Ronald Richardson
Executive Sec.-Treas.
Local 25, AFL-CIO

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La Iglesia Luterana Americana

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Rev. Dan Long
Director

June 29, 1984

Congressman John Joseph Moakley
U.S. House of Represenatives
Washington, D.C. 20515

Dear Congressman Moakley:

On June 20, 1984, I attended the hearings of your sub-committee on the House Bill 4447 (Moakley/DeConcini). At that time you invited those who so desired to make their statments a part of the official record of the sub-committee.

I would like for the attached statement and the resolution from our Southern District - ALC Convention to be included in the official record of your sub-committee hearings on House Bill 4447.

I have lived in El Salvador with the Pastor of the Lutheran Church of El Salvador for five weeks and I made four subsequent visits to El Salvador in 1983 and 1984. I served, along with eigth other U.S. citizens in our group as an observer to the March 25, 1984, elections (credentialed, but not official). During this time spent in El Salvador I have been most concerned about the safety of Lutherans (since they have experienced considerable repression at the hands of the government), tne human rights situation, and the effectiveness and morality of U.S. policy. I have visited with the U.S. Embassy on six different occasions, with leaders in the government, with members of almost all political parties, with represenatives of church groups, and, most of all, with thousands of ordinary citizens.

I have also enclosed, not for inclusion in the public record, information about the two Salvadoran Lutheran Refugees who accompanied me to Washington for the purpose of visiting Congressional offices to lobby on behalf of your bill.

Cordially,

Daniel M. Long

Statement by Rev. Daniel M. Long

THERE IS NO SAFETY IN EL SALVADOR

After five trips to El Salvador, in which I have visited with almost every possible sector available to see, I have become convinced of the claim by Salvadoran refugees that there is no safety in El Salvador for any citizen of that country.

The United States Administration, the Congress, the Justice Department and the Department of Immigration and Naturalization have tried to deny this reality by various means: hiding behind the law, spreading half-truths and lies, and by raising the spector of an all-out invasion of refugees from Salvador as the consequence of a fair and just compliance with current U.S. Refugee laws and the United Nations Treaty on Refugees.

The violence in El Salvador is indiscriminate, wide-spread, and built into the very fabricate of the current political realities of the parties that run the country.I have attached information about civilian deaths to demonstrate this reality. Below, I have listed several misconceptions and lies that continue to pervade official statements by government officials.

1. Their is an unjustified emphasis on the Death Squads as the source of violence. While it is true that Death Squads kill many, there are also other sectors of the official government structure that kill more. For example, in 1983 there were only 23 civilian deaths attributed to known death squads, 1236 to para-military squads of unknown identification, but 3658 civilian deaths attributed to the Army. In 1984 the Air Force has taken on a new significance with indiscriminate bombing of civilian population. In March alone they are attributed 33 civilian deaths. (these figures reflect about 2/3 of the actual counts, since these figures reflect only those deaths that can be documented by body counts or testimony).

2. The percentage of civilian deaths whose names appeared on a death squad list is very low. Yet, for political asylum cases here, this seems to be one of the only proofs that one can present to prove danger upon deportation. These famous lists are used as a means of terror at certain times. Death Squads do indeed have lists, and so do paramilitary groups, police groups, but they are not public., The 200 people who died in the indiscriminate bombing of Tenancingo in October of 1983 did not know they were in danger of losing their lives. Or the 15 families who were killed by the army in Calanderia were not prewarned of impending danger.

3. It is often reported that the violence against civilians is equal on the right and the left. Statistics show that this is not the case. Since 1979 there are 42,171 civilian deaths attributed to the government and only 1660 attributed to the opposition forces of the FMLN-FDR (or, that is to say, 4% attributed to the left).

4. Another myth is that the human rights situation improves is the number decrease. This is not an accurate analysis for two reasons. First, one has to consider that with time there is fewer people to kill. Over 1 million people have fled the country since 1979, reducing the possible audience by 20%. One really has to ask how can there still be over 5000 civilians left to kill in 1983? Second, not one significant judicial action has been taken to bring to trial any of the assassins of Salvadorans, not one death squad leader or participant has been brought to trial, and not one soldier has been tried for crimes against Salvadoran civilians.

5. The recent trial of the assassins of the four Northamerican Maryknollers is often quoted as a sign of progress. If, in the United States there had been 2,000,000 political deaths in 5 years without one trial, but then the assassins of 4 Salvadorans were brought to trial, do you think that we would consider that there was progress being made (2,000,000 political deaths is the U.S. population equivalent of 40,000 Salvadoran deaths). Furthermore, I understand that President Duarte has said that this case will not be pursued to discover if higher eschalon officiers in the National Guard are involved.

6. There has not been one case of a "disappeared" person investigated or cleared up by the Salvadoran government. This represents a level of "0" improvement on this aspect of human rights.

7. It is sighted as progress that the Salvadoran government now has a Human Rights Commission (since 1982 - three years after the killing began to take off). In one of my last visit to this commission in March of 1984, one staff member of the Government Human Rights Commission told our group that the soldiers of the FMLN have no right to a doctor or a priest and that all such doctors or priests attending to opposition forces should be considered as terrorists. I hardly think that this a commission that is concerned about Human Rights (denying what is recognized by Geneva Convention as legitimate rights of soldiers).

8. The new director of Public Security is Colonel Lopez Nuila, former director of the National Police. In 1983 33 violent captures of civilians were carried out by known agents of the National Police. 167 of the civilian victims of violent arrest or capture turned up in the prison of the National Police, meaning that the National Police willing and knowlingly accepted the victims of captures by death squads and para-military groups under the leadership of Lopez Nuila. This same Colonel Nuila sat on the board of the Goverment Human Rights Commission while he was head of the National Police. I have heard that Colonel Nuila is tied to the Maximiliano Hernandez Martinez Death Squad. He is quoted as saying that the non-governmental Human Rights Commission and the Socorro Juridico of the Catholic Church are organized by the guerillas. When the U.S. State Department issued a list of death squad leaders in December of 1983, the director of intelligence for the National Police was on the list.

9. It is often argued that the Salvadoran society is a violent society and this accounts for many of the deaths. In one sense this is true, but not in the sense argued. What is true is that El Salvador has a history of the military and the oligarchy and their friends being immuned from prosecution. This kind of official condoning of violence obviously helps others in society to feel that they too can use violence as a solution to problems they have without fearing retribution by the state. This only goes to prove that the current government not only perpetrates indiscriminate violence, but also encourages it in the general public. In other words, how can there be safety for anyone in a country where the highest officials in the government and military use violence daily without any pretense of the judicial system doing anything to punish wrongdoers. In other words, there is really official sanction given to violence which makes the violence wide-spread, indiscriminate and free from fear of prosecution (unless of course, the violence is directed against the leaders of the country).

Rev. Daniel M. Long

Daniel M Long

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DISTRITO
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San Antonio, Texas 78207 • (512) 433-8507

Rev Dan Long
Director

TO: THE CONGRESS OF THE UNITED STATES

FROM: REV. DANIEL M. LONG

SUBJECT: LUTHERAN REFUGEES: MAURICIO VALLE, BRENDA AND BESSIE SANCHEZ-GALAN

It is my pleasure to introduce you to three find young Lutherans from the country of El Salvador. Muaricio, 23, Brenda,19, and Bessie, 21 months, were arrested on February 17, 1984, in the Rio Grande Valley of Texas along with a Catholic Nun and a Christian layworker who were assisting them in traveling north to find a secure place to live and to apply for political asylum.

I have known these young Lutherans since I lived with Pastor Medardo Gomez, President of the Lutheran Church of El Salvador, for the month of July, 1983. Both Mauricio and Brenda were active in the ministry of the local church, Lutheran Church of the Resurrection. I saw them everyday at work in their particular responsibilities. Brenda was one of the first health volunteers trained for work in the refugee camp, Fe y Esperanza, and later worked in the main supply office for the refugee ministries. Mauricio was a driver for the church and local guide to many groups of Lutherans and other Christian groups who visited with the Lutherans in El Salvador. Every Sunday I saw Mauricio, Brenda and Bessie in church. I had the privilege of participating as a Pastor in the confirmation of Mauricio in July of 1983. I don't think that we could find any more faithful and committed members of a local congregation here in the United States than Mauricio and Brenda.

Mauricio, Brenda and Bessie had to leave El Salvador as many others have had to because of the official terror and repression sponsored by the current government and its military and para-military groups. Many Christian workers in many different churches have been killed, imprisoned or disappeared in El Salvador since October of 1979. The Lutherans have experienced this repression since they began to care for refugees in May of 1982. Their pastor, one medical doctor, the pastor's secretary, and the church's accountant have all been taken captive, tortured, disappeared, and several were made political prisoners. Others, who worked with Brenda and Mauricio in the refugee camps have had to flee, have received written death threats, or have been harrassed by agents of the government.

Mauricio, Brenda and Bessie were denied all their constitutional rights upon arrest and every effort was made by local INS officials to deny them access to pastoral visits by myself and other Lutheran Pastors during their five days of detention. They were denied a phone call, a lawyer, and even a doctor when Brenda fainted during interrogation. I witnessed one illegal interrogation of Brenda by INS officials on Sunday, February 19, 1984.

Because these Mauricio and Brenda believe that their faith called them to resist any attempt to use their testimony to incriminate fellow brothers and sisters of the Christian faith who are helping legitimate political refugees find safe haven, they refused to testify for the government in the case against Ms. Stacey Merkt, one of the three people who assisted them in fleeing the Valley of the Rio Grande where no political asylum has ever been given to a Salvadoran refugee. They were coming to my home in San Antonio on the day of their arrest.

I hope that you will receive Mauricio, Brenda and Bessie with all the warmth and love due to fellow human beings and that you will open your minds and hearts to listen to their story about the realities of life in El Salvador, the courageous and compassionate ministries of the Christians in El Salvador, and their reflections on the meaning of U.S. policies in El Salvador and here in the United States as they concern refugees.

I have attached some information about the trial in which Brenda and Mauricio have been involved and statements from the Lutheran Bishops in Texas supporting their claim to be members of the Lutheran Church and legitimate political refugees.

My own faith has been deepened and strengthened by knowing Brenda and Mauricio as well as many other Lutherans and Christians in El Salvador who are involved in ministry with the poor, the marginated, and the overwhelming number of refugees inside of El Salvador who live without food, clothing, home or protection of their basic human rights. I hope that you will also receive a strengthening of faith and a deepening of commitment to Christian ministry in your encounter with them.

As a citizen of the United States I consider Mauricio and Brenda to be the victims of U.S. policies here and in El Salvador that represent a betrayal of the Northamerican people and the values that we most dearly cherish - life, liberty and the pursuit of happiness. I hope that in meeting Mauricio and Brenda you too can see that our policies provide neither security for us or for the millions of poor and powerless in Central America and that in order to restore our international reputation as a country of compassion and justice we need to give these and other Salvadorans the full protection of our laws, allowing them to stay here until such time as it is safe for them to return to El Salvador.

March 1, 1984

TO WHOM IT MAY CONCERN:

The three Salvadorans (Mauricio Valle, Brenda Elizabeth Sanchez-Galen, and her daughter, Bessie) who were arrested Friday, February 17, 1984, are active participants in the work of mercy performed by the Lutheran Church in El Salvador with those who suffer because of that country's continuing conflict. We are Lutheran Bishops, and as such, express great concern for their plight as citizens of a country torn by war and as they seek protection in our country.

These individuals have reported to interested and concerned people that they left their country because their lives had been threatened as a result of their work. Given the history of political repression and wide-spread violence in El Salvador we have sympathy for their fears.

The persecution of Lutherans who have been involved in the work of mercy carried on by that church in El Salvador is widely known. The arrest of Pastor Medardo Gomez and Dr. Angel Ibarra and subsequently of two other key members of the same church has received international publicity. This further confirms to us the reality of threats made against the lives of Mauricio Valle and Elizabeth Sanchez-Galen.

As a result we ask that they have the protection our country can offer them until such time as it will be safe for them to return to their homes. Certainly our Biblical mandate to be representatives of Christ's love calls us to provide care as we are able to give for those who stand in need.

As they are given protection out of harm's way we ask also that they be granted as much freedom of movement as possible. We are also concerned that they receive the same level and quality of pastoral care and concern as do other members of the Christian church here in the United States. We note allegations have been made that some attempts were made to prevent these refugees from receiving such pastoral care. We hope this is not a continuing experience.

We seek to stand with our brothers and sisters in Christ as we seek also to be responsible leaders of the church that has called us into its service.

Sincerely,

August Wenzel

August E. Wenzel, President
Southern District
The American Lutheran Church

Philip Wahlberg, Bishop
Texas-Louisiana Synod
Lutheran Church in America

cc: E. James Rausch, Attorney at Law

The Monitor

Good Afternoon, It's . . . Wednesday March 14, 1984

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48 Pages — 4 Sections

Grand jury indicts 2 Catholic workers in alien smuggling case

By SCOTT LIND

BROWNSVILLE — A federal grand jury Tuesday indicted two Catholic workers on three counts of conspiracy and transport of illegal aliens.

Catholic laywoman Stacey Lynn Merkt and nun Dianne Muhlenkamp were indicted on one count of conspiracy to transport illegal aliens within the U.S., and two counts of transporting them, said Asst. U.S. Atty. Jack Wolfe.

Wolfe said the case of *Dallas Times-Herald* reporter Jack Edward Fischer was not brought before the grand jury.

Fischer also was arrested by Border Patrol agents near Guerra on the morning of Feb. 17 with the two Catholic workers in a Catholic Diocese of Brownsville car.

Also in the car were three Salvadoran refugees, Mauricio Valle, Brenda Sanchez-Galan and her 18-month-old child Bessy.

William J. Davis, a Catholic priest and a director of the Christic Institute which is defending Merkt, said the indictment of the two women "places the U.S. government in direct conflict with the churches."

The conspiracy count, for which Merkt and Muhlenkamp were indicted, carried a five-year prison term and a $10,000 fine. The second and third transport counts carry up to five-year prison terms and $2,000 fines.

If found guilty of the charges, Merkt and Muhlenkamp could be given 15 years in the penitentiary and fines of up to $14,000.

Wolfe said the reason Fischer's case was not presented to the grand jury is that "there's some question as to whether or not he was involved in legitimate newsgathering activities."

He said Fischer's case is still being investigated as to his intent and whether he was participating in the alleged crime. Once that question is resolved, "We will proceed with a grand jury presentation or dismiss the case."

Wolfe said Fischer, through his attorneys, waived his right to a speedy trial.

Davis speculated the government may have decided not to indict Fischer now because "they didn't want to go against the press."

A spokeswoman for the

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THE MONITOR McALLEN, TEXAS Wednesday, March 14 1984 15A

Indictments

Continued from Page One

Brownsville-U.S. Magistrate's office said Merkt and Muhlenkamp could appear for arraignment before the Brownsville-U.S. magistrate's court as early as next Thursday or Friday. Jury selection on their trial could begin by May 3.

Representing Merkt are attorneys Daniel P. Sheehan, who was lead counsel in the Karen Silkwood case, and Wally Kasuboski, both of the Christic Institute.

Davis said he expects the trial will have major importance, and defendants will draw support from the entire Christian community involved in refugee work.

"These people were not transporting anyone who was 'illegal,' but rather, they were transporting Salvadoran refugees seeking political asylum according to U.S. law," he said.

Davis said the Salvadorans' trial, at which they are expected to enter not-guilty pleas on the charge they are illegally in the U.S., was originally set for March 23.

However, defense attorneys asked for a continuance, he said.

Davis responded to earlier statements by Wolfe that it is "irrelevant" that any of the defendants are Christians, and that the U.S. Attorney's office's only interest is the illegality of what they are charged with doing.

"Those helping the refugees were performing a religious act they have every right to perform according to U.S. law," Davis said. "I don't think it's irrelevant at all that they're Christians."

Rather than Merkt or Muhlenkamp being involved in any conspiracy, Davis said, "If there's any conspiracy here, then it's a conspiracy on the part of government officials" who keep claiming Salvadorans are fleeing their country for economic reasons.

"The activity these people were engaged in was not illegal and was mandated by their Christian consciences," he said.

Concerning Merkt and Muhlenkamp, Davis said, "The Christic Institue will do everything possible, not only to defend them, but also to unmask the illegality and immorality of the government's position."

Davis said the government has ignored statements by former Salvadoran President Napoleon Duarte who told a Catholic archbishop in Washington, D.C., that Salvadoran refugees should not be returned to their country because their lives would be endangered.

"I think it's a wrong policy, a criminal policy and an un-Christian policy to choose to ignore that fact," he said.

Jack Elder, director of Casa Oscar Romero in San Benito, said he believes churches involved in the nationwide sanctuary movement for Salvadoran refugees "are ready to support the defendants to the very end."

Salvadorans say deportation would probably mean death

By Kay Miller
Staff Writer

Brenda Sanchez-Galan cradled her sleeping toddler in her arms and said she will face death if she is deported to her homeland of El Salvador.

On Feb. 17, Sanchez-Galan, her daughter and Mauricio Valle became the first refugees harbored in church sanctuaries to be arrested in the United States. On Tuesday, just two days before they face the final pretrial hearings on their case in Texas, the three Salvadorans were in the Twin Cities to tell fellow Lutherans their story and to talk about the repression of church members in El Salvador.

"I think if we are deported, maybe if we are lucky and God is good to us, we will last a week," said Sanchez-Galan, 19, in Spanish.

People at church sanctuaries locally and nationally view the arrests and trials as a federal immigration test case to challenge the sanctuary movement, which has grown to include 100 churches nationwide, said the Rev. Dan Long, director of Hispanic ministries for the American Lutheran Church's Southern District. But a federal prosecutor described the case as "business as usual" and denied that a crackdown on church sanctuaries has started.

Before dawn on Feb. 17, the three were traveling on an isolated country road about 40 miles northwest of McAllen, Texas, where they had been living in a church haven called Casa Oscar Romero. Arrested with them were a nun, a lay worker and a reporter for the Dallas Times-Herald, who was preparing a story on the sanctuary movement.

Later, the director of the McAllen sanctuary, Jack Elder, was indicted by a federal grand jury on three counts of transporting illegal aliens.

The case is being watched by the five church sanctuaries in Minnesota, said Otto Hiller, sanctuary coordinator for Walker Community United Methodist Church. "I think we're all concerned and waiting to see what will happen, particularly since the director of Casa Romero was also arrested and charged with conspiracy," said Hiller.

"One concern is that the immigration service after the presidential elections might decide to come and arrest our refugees and people from our churches," Hiller said. "So we're obviously concerned about that. We're making sure our volunteers know the legal risks and know their legal rights."

Like other sanctuaries, Casa Romero has been harboring Central American refugees despite the immigration service's position that it is illegal. For years the service took no action against the Catholic and Methodist operation, its volunteer workers or the refugees, Long said. In fact, the service frequently brought the refugee overflow to Casa Romero when their jails were full, Long said.

But federal prosecutors insist that the six were apprehended in a routine patrol of a known alien smuggling route.

"We've never received any instruction to start cracking down on the sanctuary movement or anything like that," said Jack Wolfe, assistant U.S. attorney for the southern district of Texas, Brownsville division, who is helping prosecute the Salvadorans.

"We are still conducting business as usual," Wolfe said. "If people violating the law are picked up in the course of law enforcement activities, then they'll be prosecuted. That's the way it was before these arrests, that's the way it was during these arrests, , and that's the way it is right now."

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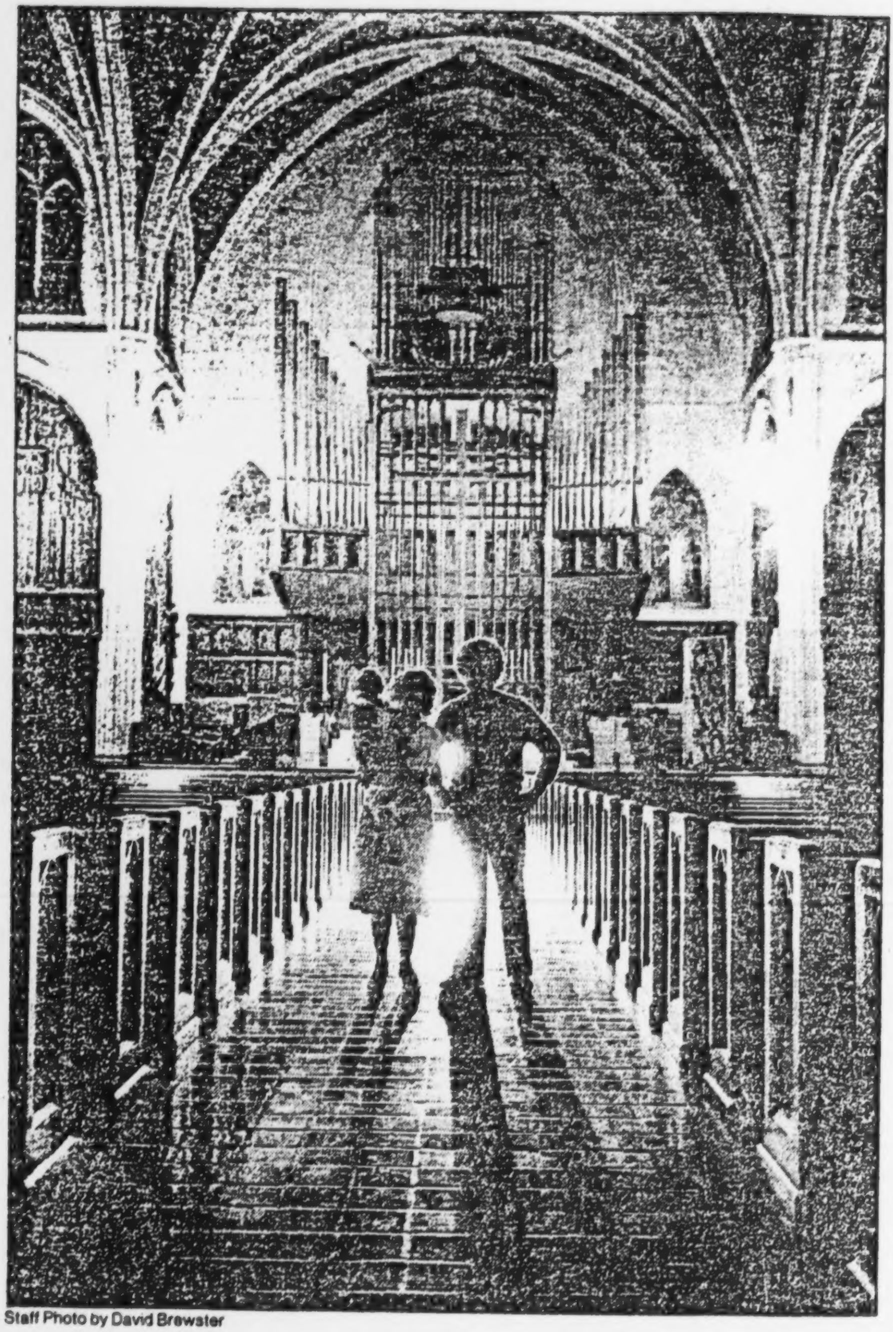

Staff Photo by David Brewster

Salvadoran refugees Mauricio Valle and Brenda Sanchez-Galan, with her 19-month-old daughter, told members of the sanctuary movement at Central Lutheran Church that they might live a week if deported.

SOUTHERN DISTRICT, THE AMERICAN LUTHERAN CHURCH

CENTRAL AMERICAN REFUGEES

A resolution passed by the Annual Convention on June 3, 1984

WHEREAS the world has witnessed the suffering of Central Americans during their present crisis;

WHEREAS our nation and our church have a long, noble tradition of welcoming those who are driven from their countries by violence;

WHEREAS as a nation we have, in the 1980 Refugee Act, undertaken to welcome and protect refugees who have a well-founded fear of persecution in their home country;

WHEREAS the State Department and the Immigration and Naturalization Service (INS) consistently deny that Central American refugees have a well-founded fear of persecution;

WHEREAS the INS in almost all cases refuses to grant to Central American refugees the status given to refugees from elsewhere, Extended Voluntary Departure;

WHEREAS Lutheran refugees from Central America testify that violence is so pervasive that anyone in their countries could justifiably claim a well-founded fear of persecution;

WHEREAS hundreds of thousands of refugees--including Lutherans--from Central America have come to us, literally running for their lives, arriving with few resources and serious needs;

WHEREAS Jesus himself, as a child, was a refugee in Egypt, sought by a cruel king who wished to kill him; and

WHEREAS, in his teachings, Jesus called us to help the suffering;

BE IT RESOLVED THAT the Southern District of The American Lutheran Church calls on its congregations to open their hearts to these refugees and welcome them as they have already welcomed refugees from other parts of the world;

AND THAT the Southern District memorialize the 1984 General Convention of The American Lutheran Church to call on the State Department and the INS to apply the 1980 Refugee Act as fairly to Central Americans as they do to refugees from other parts of the world, especially by granting Extended Voluntary Departure to all Central Americans with a well-founded fear of persecution in their home country.

SOUTHERN DISTRICT, THE AMERICAN LUTHERAN CHURCH

SANCTUARY AND THE UNDERGROUND RAILROAD

A resolution passed by the Annual Convention on June 3, 1984

WHEREAS Central American refugees in the U.S. continue to be hunted down, imprisoned, and deported into the hands of the armies from which they fled;

WHEREAS the California Immigration Project has proven that a great many of the Salvadoran refugees deported are either killed or "disappeared" soon after their arrival in El Salvador;

WHEREAS, despite the risk of prison terms and heavy fines, church workers numbering over 35,000 are participating in an "underground railroad," transporting and supporting refugees and protecting them from deportation;

WHEREAS despite potential legal penalties, religious congregations, numbering over 130, have publicly declared themselves sanctuaries for Central American refugees;

WHEREAS Lutherans may look with pride on Martin Niemoller, Dietrich Bonhoeffer, and the Confessing Church for their resistance to government when government sought to change the fundamental nature of the church;

WHEREAS a foundation stone of the church is love for one's neighbor;

WHEREAS Central American refugees are our neighbors in need of our love;

WHEREAS, God's teachings are greater than human law; and

WHEREAS government may not prohibit Christians from bringing the love of Christ to those who suffer;

THEREFORE, BE IT RESOLVED THAT the Southern District of The American Lutheran Church is in sympathy with the courageous and compassionate actions of congregations which have declared public sanctuary and of church people in the "underground railroad";

AND THAT the District encourages its own congregations and members to study seriously their own responsibilities toward Central American refugees and to assume whatever risks seem necessary to remain consistent with the spirit of Jesus' teachings.

Mr. Moakley. Once again, thank you all for coming here and participating in this hearing.

The Subcommittee on Rules will stand adjourned.

[Whereupon, at 1:04 p.m., the subcommittee adjourned, subject to the call of the Chair.]

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